

ΒΟΥΛΕΥΤΗΡΙΟΝ.

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A Practical Demonstration¹⁷⁰⁷
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COUNTY-JUDICATURES.

Wherein is amply explained the Judicial and
Ministerial Authority of

SHERIFFS
AND
CORONERS.

Together with the Original Jurisdiction,
and Method of keeping all
COUNTY-COURTS.

By William Greenwood. φιλόνομος.

Theophrast. Ὁ μὴδὲν ἀδικῶν, ἕθενός δέ τινα νόμος.
Qui nihil injuste agit, nulla opus habet lege.

The Sixth Edition. With the Addition of Divers Reso-
lutions of the Court of **Kings-Bench** for keeping
Inferior Courts within their **Iust Bounds**.

LONDON, Printed for John Place at Furnivals-Inn-
Gate in Holborn. 1685.



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Edward TO THE *Dapper Lib*

CANDID and INGENUOUS

READERS.

HOW worthy of observation is that Ingenious *Apothegme* of Divine *Plato*, when he said; *Ἐγὼ ἡμῶν, ἔχ' αὐτῷ μόνον γέγονεν, ἀλλὰ τῆς γενεᾶς ἡμῶν τὸ μὲν πὶ ἡ πατρὶς μερίζεται, τὸ δὲ τοὶ οἱ γνήσιοντες, τὸ δὲ οἱ λοιποὶ φίλοι.* *Non nobis solum nati sumus, sed ortus nostri partim sibi patria vendicat, partim parentes, partim amici.* So the perswasive dictates of this golden *Thema* suggested to me, the utility a Treatise of this nature would produce to the Country, which instigated my Pen to demonstrate as well the Theorick as Practick part of those Courts generally incident to it;

To the READER.

for the more the Country knows them, the better they will affect them: *ignoti nulla cupido*. I cannot comprehend how any thing can be more useful to, and for the Country, and consequently more generally expetible and wished for, than the Theorick and Practick knowledge of these Courts: for who is there in any County of this Kingdom, or within the several Precincts or Jurisdictions of any of these, that is not or may not sue and be sued in them? So that here they may read and understand how their Actions do proceed, and what, and how far the power and force of every *Precept* and *Warrant* doth extend, and what the *Fees* are; and may, as with a Touch-stone try and examine the actions and proceedings of their *Attorneys* or *Sollicitors*. I must acknowledge my early experience (that I am but *ὄντας πρὸς λυγρὸν*. *Asinus ad Lyram*, in these Discourses) in comparison to some of the more grave and ancient Practitioners.

TO THE READER.

cers, is but as a drop of water to an overflowing Bucket; neither am I ignorant that much hath been writ upon these particular Subjects, by men whose sage and industrious labours, and strenuous abilities, I dare not so much as emulate: yet in a matter of so grand and publick importance, I hope I shall not be too severely blamed, if I, according to my cursory and imperfect manner (for never any at once vaulted into perfection) adventure to follow their footsteps; for the Subject is not new as touching matter, but only in invention, order, style and method of handling it; for I walk not upon mine own legs, but am stilted by what I have borrowed from those *Luminaries of Learning*. I am indebted to all; yet not being beholding to any of my *Creditors* without giving them a note under my hand, nor averring any thing of my self, thereby to muzzle the mouth of contradiction: for I know the too acute severity of some, will be furnished with Latitude enough to

To the READER.

charge may Pen with Lapses and Imperfections. Therefore you must expect better and more generous Wine of the old Vine-tree, according to that of *Pliny*, *Vetustioribus semper vitibus vinum melius*; for I dare not promise you (*Amphoram ne urceus exeat*) a mountain, lest it produce the ridiculous issue in the *Fable*.

Objections may peradventure arise, That in this I have imitated the *Amygdala* or *Almond-tree*, that with celerity buds and brings forth her fruit; or that I have soared above my pitch, attempting an *Eagles* flight with the flagging wings of a *Wren* in the high spring-tide of an over-weening opinion, pricked forward by an insatiate desire of *imposthume* glory, or conducted by the *Ignis fatuus* of popular applause: but this I look upon as the carp of some *Aristarchus* steep in to calumniate what he cannot better; neither do I expect but to be subject to such a lash; for I confess it (according to that of *Nicomachus*) ἐργάδες εἶναι ἐν βίᾳ βέλτερά τε

To the READER.

τὸ ἐξ ὁδοῦ πάντας ὁρῶντας λαθεῖν. *Difficile esse in hac vita degentem, omnes invidentium oculos latere*: yet let such *Criticks* take this by the way, that Πᾶν μωμῶσα δαίη ἢ μιμῶσα δαίη. It is far easier not to like, than to do the like. But though they do uncivilly prejudicate my endeavours with a sinister conceit, or uncourteously censure my non-ability, impeaching me for some things that do distaste their delicate palates, as my former appearances have done; yet *jacta nobis est alea*, I intend by the divine favour happily to proceed, though unhappily I have begun; (for in truth the Subject would require the studious *Pen* of a sage Lawyer, yea the combination of learned heads, to do it to the life: yet neglected (for I ever esteemed the employment of those talents, either naturally bestowed on *Man* by the *Deity*, or acquired by study and industry) ought more properly, yea, and of duty, to be employed in the service of our *Country*, than to be made use of in the satisfaction of our

To the **READER**

private humors: therefore I do here (in acquittance of that general obligation) endeavour to offer up this *Mite* of my endeavours among the many learned and elaborate Works which the choice wits and studious pens of our Age have produced in all kinds: for the *World* at this time is oppressed with nothing more than the press, every one striving to distill the dewy quintessence of his Brain through his *Limbeck* of invention; so among the rest I have not altogether sequestered my self: for when I had employment, they were my vacancies to rest; when I was infected with vice-bourishing idleness they were my employments.

Let me not upon me to write any *Encomium's* upon the Book, it belongs not to me; but now it is abroad, must totally be submitted to your judgment and censure. And I know it must be the worth of a book and not the wyre-drawn flourishes of an obsequious Epistle, that causeth your approbation; so that this must stand or fall by

To the READER.

by the weight or levity you shall find in it.

Now as this Tract is chiefly intended for the commodity of the *Country*, and as it is their sole object to place their invectives point-blank against *Law* and *Lawyers*, and if I vindicate them, I shall rather seem to detract from, than add to their *Fame*, it having been the sole subject of many learned *Pens*; yet I hope it's no presumption, if I add one *Lawrel* more to the Learned's *Crown*. The *Laws* constituted by learned men, Antiquity own'd and receiv'd as from the command of the Gods, accounting only those men fit to converse with the Gods. Thus *Minos* the *Cretan* is said to converse with *Jupiter*, and in his presence to compile those *Laws* he after gave to the people; and *Lycurgus* the *Lacedemonian*, to have command from the *Oracle* at *Delphos*; and *Numa* to consult with the Goddess *Ægeria*, that the *Laws* might be more cordially admitted
and

To the READER.

and obey'd, as made by the gods themselves
Nay, in a kind, by a civil *non obstante*, ex-
cepting them (so learned) from being obli-
ged by *Law*, as other men of less magnitude
were; as appears in that carriage of *Archi-*
tas the *Pythagorean* his Citizens to him,
whom they would choose seven times their
head-Governour, though the *Law* prohibi-
ted any other that office and honour above
a year. Have a retro-spect to the *Journals*
of *Antiquity*, view the *Diaries of time*, and
you shall find men learned in the *Laws*,
noble advantages to their *Country*, their
Champions to defend them, their *Oracles* to
advise them, and their *Orators* to plead for
them.

And now, as to the *Laws* themselves,
which may be truly term'd the *Walls and*
Palizadoes of *Governments* and *Nations*;
yea, the strongest sinews of human society:
for, take away the potency of *Laws*, & who
is it that can say, This is mine, or that he is
within the *Bulwarks* of incolumity: ac-
cording

To the READER.

According to that eloquent *Aphorism* of *Demosthenes*. Πόλεως ψυχὴ εἰναι τὰς νόμους ὅσους γὰρ τὸ πόλις ἐστὶν ψυχὴς τίεται: ἔτι καὶ πόλις μὴ ὄντων νόμων, ἐξ ὧν καὶ. *Leges esse animam civitat. ut etiam corpus cum anima orbat. est, concidit: Ita & civitas sine legibus consistere non potest: So the true end of all Laws is to ordain and settle an Order and Government amongst us, the jurisdiction whereof we are rather obliged to obey, than dispute. Though Thales compared Laws to Spiders webs; But such are ever to be spun in a corrupt State; ours are Equivocal Laws, speaking Laws, that dare tax a Delinquent be he never so potent; For the Law is grounded upon the rules & axioms of Reason, and therefore have an ingeminate denomination: the absence of the one, is the deformity of the other, being in a kind convertible, and inseparable. That common Reason we have ingrafted in our Natures, is a Law, directing what we are to do prohibiting the contrary, according to that of *Cicero*, *Eadem ratio cum est in hominis mente*
confirm-*

To the READER.

Confirmata & confecta lex est. For *Law* is nothing but reason dilated and applyed upon several occasions and accidents: The comprehension of reason is of publick enormities and necessities, for which they be severally at several times constituted, being infinite: so that the disease in our knowledge many times hath the priority of the remedy. And thus the reverence and duty we owe to *Laws*, is nothing else but obedience to *Reason*, which is the begetter, correcter, and preserver of the very *Laws* themselves. Those therefore who will not obey them, are more propinque to the nature of brutes and salvages, than men indued with reason. It is *Law* and *Reason* that do knit the true Gordian-knot, that binds and cements us to unity and peace amongst our selves, and dissipateeth all such violent and illegal courses, as otherwise unbridled liberty would insinuate, preserving every man in his right, and preventing others, who if they thought their actions might pass with
impu-

To the READER.

impunity, would not measure their course by the rule of *Aequum & Justum*, but by the square of their private commodity and affections, and so being not circumscribed within reasonable Bounds or Landmarks, their reason becomes invisible; whereas when they find that *Justice* hath a predominant power, they are deterred from proceeding in those Acts, that otherwise their own Will and inclinations would give them leave to effect. And these were the causes that prompted *prudent Antiquity* to institute these Courts of Judicature in each *County*, and their several Precincts; and likewise was the cause instigated me to compile this *Miscellanie* of Courts, which in it self is methodical, facile and perspicuous, to benefit the meanest capacity, yet satisfy the highest. I have now nothing more but to Apologize with *Isocrates*, who with this Rule prepares me to endure the supercilious censures and various opinions of Men.

To the READER.

Δεῖ ὁμοίως ἀρεγάσαι τῇ κατηγεύμεναι διαλογισμῶν.
And that I hope your candid ingenuities
(*Juevnili mea ætate considerata*) will pro-
mise me your connivance at those *Errors*
that shall occur, and that you will (*mitif-
simo aspectu*) smile upon this *small Piece*,
whose little desert, though it cannot ex-
pect the perusal, yet it's humility in pro-
strating it self before you, may merit your
acceptance, whereby he shall be encoura-
ged to higher designs, whose highest am-
bition is to be

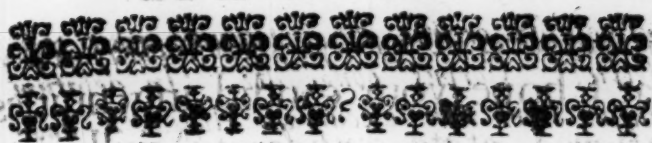
Your Friend to serve you,

W. G.

From *Furnivalls-Lane*,

April 29. 1659.

Ad



Ad amicum eruditissimum

G. Greenwood, in *Βελουε*

suum *Ευμυδοπευός*.

Dum stupendam ingenti tui facunditatem, lanuginosa concinnsam aetate, suspitio, in mentem subit, imberbem Apollinem in te suum transfudisse gentium, ut testaretur tibi minus pili, quam eruditionis accrevisse. Minerva non multo pridem, e Joviali tuo cerebro prodiens, affectus amoris titulo vulgo insignita, inventionem ovantem plane ostendit; luxuriantis calami veneres dulcescentes suas exhibent pulchritudines, nec formosa facetiarum rosa caret Aculeis, lascivientes digitos stimulantibus. In desudato hoc *Βελουε* tuo limatum triumphat iudicium antiquissimarum *cutiarum* leges, & methodos a prudentissimis sui aevi inventas & excogitatas, ad immensum decus, elucubraſti: quæ tenebriose vetustatis ruderibus jacebant occulta, in lucem dedisti: Magis familiaria, sive indigesta, seu disseminata, politiori dispo-

disposuisti ordine, & in unum velut perfectionis Corpus congelessisti. In debitum hujus libri non excutram elogium; quælibet pagina suis turget laudibus, tuamque ultra Herculis Columnas diffundit famam. Magni futuri nominis eximia sunt hæc præludia; nec de expectatione, tantis suffulta speciminibus, dubitandum felicissimam cerebri tui ubertatem largiori rivo in publicas utilitates manaturam; ego interim, impositis ori digitis silebo, & mirabor,

Tui amantissimus,

J.P.

OF

OF THE
ORIGINAL
OF
SHIRES, SHERIFFS,
And the first
INSTITUTION
OF THIS
COURT.

BEfore we anatomize the practice of this Court, we thought it convenient to deduce it from its Original or Prototype, *Quia origo rerum attendenda*: and first of the Shire.

Shire is a Saxon Word *ſcýra*, and hath its Etymology from *ſhipan*, (*id eſt*) *partiri*, to divide, as Mr. Lambert ſaith in his explanation of Saxon words, *Verb. Centur.* And Mr. Camden in his *Britannia* reporteth, that *Alfred* (a Saxon) King of England, was the firſt that divided this Common-wealth into Shires, thoſe Shires into Ridings, and thoſe Ridings into Wapentakes, or Hundreds, &c. Likewise as Sir Henry Spelman in his Gloſſary ſaith, *Sunt qui Comitatum diſtinctiones ſub Berengariis & Othonis, vel ſub Carolo magno, apud exteros accidiſſe opinantur; quod de plurimis forte verum fuerit,*

B

County-Court.

fuerit, nonnullæ autem antiquius deprehenduntur. Rem apud nos perspicuam facit Ingulphus, si sine fides. Rex (Alfridus, alias Aluredus & Athelfridus, qui regnum iniiit Anno 871) totius (inquit) Angliæ pagos & provincias in Comitatus, primus omnium commutavit, Comitatus in centurias & hundredas, & in decennas (id est) tithingas divisit. Which strenuous authorities, are sufficiently valid to prove the Original of Shires, and their divisions.

The Republick being thus disunited or dissected into Shires, every Shire is entirely governed by one Officer called a Sheriff, or Shire reeve, *Vicecomes*, compounded of these two Saxon words *ſcýp* viz. *Satrapia*, a Shire and *peue*, viz. *Præfectus*, a Governour of the Shire. Mr. Camden thus describes his Office: *Singulis vero anni, nobilis aliquis ex incolis proficitur, quem Vicecomitem quasi vicarium comitis & nostra lingua Sheriff, viz. Comitatus præpositum vocamus: qui etiam comitatus, vel provincie Questor recte dici potest.* But in Seldeni *Juri*, fol. 53 & 54. you have two Governours of the Shire assigned; where he saith, *Præfectus provinciarum qui antea vice domini (ad Ingulphum reversus est Aluredum) in duo officia divisit. 1. in Iudices, quos nunc iustitios vocamus, & in Vicecomites qui adhuc idem nomen tenent. Faceſſat ergo Polidoras urbinas, qui primos a Normanno petit Vicecomites,* which we now call *Vicount* a *Vicecomite*, which cometh from our Conquerors the Normans, as Sheriff from our Ancestors the Saxons. Also Sir Henry Spelman in his Glossary saith, *Quinam autem nunc essent magistratus quos Ingulphus hic vocat Iusticiarios & Vicecomites; non plane assequor. Reor, Aldermanni provinciarum, & Grevii; Saxonice, ealþorþmen & geþear. De Grevii (saith he) tamen munere nec habeo definitum: discrepare enim videtur a Vicecomite, quod hic adhuc comitis esset vicarius ille regis officialis, unde in Anglo Saxonum legibus, atque ipsius Aluredi; Cýningeþ geþear, id est, Grevius regis, (vel ut Latine sepius redditur) Præpositus regis appellatus est.* And that he is Governour of the County, the words of his Patent import as much, viz. *Commissimus tibi custodiam comitatus.* So that he is an Officer of great antiquity, trust and authority, having from the King the custody, tuition, and command of the whole County, Col. 4 33. *Mittons case.*

The

County-Court.

The aforesaid *Alfred* at the division of the Kingdom into the Shires or Counties, instituted this Court called the County-Court, and established Jurisdiction in it; granting power and authority to the Sheriff to hear and determine such matters as (either for Law or Equity) should be brought unto him. This Court (as it is recorded by Mr. Selden in his Treatise of Tythes) was joyntly exercised by the Bishop of the Diocess, and by the Sheriff or Alderman of the *sciregemot*, or Hundred, or County Court, where the one sate to give Goder night, the other for populous night, that is, the one to judge according to the Laws of the Kingdom, the other to direct according to Divinity. And Sir Henry Spelman in his Glossary saith, *Comitatum simul regebant, pariterque in foro confidentes, judicia publica exercebant: hic secundum jus humanum, ille vero divinum, L.L. Canuti M.S. ca. 44. Habeatur ter in anno Burgesmotus (i. Civitatis conventus) & Schiresmotus (i. pagi, vel Comitatus conventus) bis nisi si pius opus sit: & intersit Episcopus, & Aldermanus, & doceat ibi Dei rectum & seculi: uterque scil. pro suo munere. Idem Ladgari, L.L. ca. 5. sed pro Aldermannis, ibi comes extat (ut supra demonstravimus) & utrumque recte. Nam in comitatu simus confidisse reor, Comitum reipub. partes tueretur; Episcopum, qui Ecclesie; & Aldermannum, qui Legem diceret & exponeret. But at the Norman Conquest, this kind of holding Ecclesiastical Pleas in the Hundred or County-Court was taken away, as may appear by this Mandate of William the Conqueror, recorded in Seld. Jani. lib. 2. fol. 76. *Willielmus Dei gratia Rex Anglorum, Comitibus, Vicecomitibus, & omnibus Francigenis, & Anglis qui in Episcopatu Remigii terras habent, salutem. Sciatis vos omnes & ceteri mei fideles, qui in Anglia manent, quod Episcopales leges, que non bene, nec secundum sanctorum Canonum precepta, usque ad mea tempora in regno Anglorum fuerunt, communi consilio Archiep. meorum, & ceterorum Episcoporum, & Abbatum, & omnium Principum Regni mei emendandas judicavi. Propterea mando, & Regia Autoritate precipio, ut nullus Episcopus vel Archidiaconus de legibus Episcopalibus amplius in hundredo placita teneat, nec causam, que ad regimen animarum pertinet, ad iudicium secularium hominum adducant, sed quicunque se-**

County-Court.

cundum Episcopales leges, de quacunque causa, vel culpa interpellatus fuerit, ad locum, quem ad hoc Episcopus, eligerit & nominaverit, veniat, ibique de causa sua respondeat, & non secundum hundredum, sed secundum Canones & Episcopales leges, rectum Deo & Episcopo suo faciat.

Lambert
Arch.

All actions whatsoever were brought in this Court before the Sheriff, as it is reported by Mr. Lambert in his Archeion in that particular of the Laws of Edgar to our matter in hand, *viz.* Let no man seek to the King in matter of variance, unless he cannot find right at home: But if it be too heavy for him, then let him seek to the King to have it lightened. The very like thereof in effect is to be seen in the Laws of Canutus the Dane, sometimes King of this Realm; out of which Laws may be collected Four things.

First, That every man had means, and was authorized to sue and commence their Actions in this Court, in their own Shire or County.

Secondly, That no man ought to sue out of the County, or to remove or draw his Plea from thence without good cause; both which things do plainly appear in the letter of this Law.

Thirdly, That the King himself had a high Court of Justice, wherein it seemeth that he sate in person; as these words do demonstrate, *Let him not seek to the King, &c.*

And lastly, That the same Court of the Kings did judge not only according to meet Right and Law, but also after Equity and good Conscience. And after this order, and in these two Courts, was all Justice administered. This Court continuing (until the time of William the Conqueror, and ever since during the times and Reigns of the ancient Kings) and doth yet continue (in manner) the same form and substance that it then was; and the pleasought no more to be taken from it now in our days (without cause) than they ought then to have been; which may evidently be proved by those ancient Writs of *Pone, Recordare, Writ of false Judgment, and Accedas ad Curiam*, which are yet in use to this day, and to this only end, to remove Suits (upon cause) out of this Court into superior Courts. But because this requireth great search of Records to make any further progression (whereunto I have no access) I must leave it to such whose abilities are

are more strenuous to travel in so intricate a path.

This Court is no Court of Record, but only a Court- *This Court* Baron (though it had in ancient times the cognition of *no Court* of great matters, as may appear by * *Glanville lib. 1. cap. Record.* 23.4. by *Bracton* and *Britton* in divers places, and by * *Hengham Fleta, lib. 2 cap. 62.* but it was abridged by the Statute f. 8. cap. 2. of *Magna-Charta, cap. 17.* and much more by 1 E. 4. cap. *placita venunico*) therefore Pleas holden in this Court by *P'aint, ro de fur-* nor Pleas holden by *writ of Justicies*, are not taken as *tis, melle-* matters of Record, for those Pleas are holden by reason *tis, hutesio,* the Court, which the Sheriff holdeth by reason of his *plagis, ver-* Office. *beribus,*

transgres-
sioni; ubi non agitur de pace Domini Regis fracta, ad Vicecomites perinent audienda & terminanda. See *Seldens* Notes upon it, f. 135, 136, 137, 138, 139, & 140. Likewise Sir *Henry Spelmans Glossary,* fol. 18. & 438. *L.L. Edovar. Confess. cap. 12. Chimini vero minores de Civitate ad Civitatem ducentes, & de Burgis ad Burgos, per quos mercata vehuntur, & cetera negotia fiunt, sub lege Comitatus sunt. &c.*

This Court (as *Dalton* reporteth in his Office of She- *why insti-* riffs) was ordained for the Sheriff to hold Pleas there, *tuted.* for particular or private matters (under forty Shillings) between party and party.

It is now, as it is always, holden once every moneth, *The time* upon a certain day, the moneth being computed accord- *when it is* ing to twenty eight daies in the moneth, and not ac- *to be hol-* cording to the Kalendar *Magna-Charta 35.9 H.3. c. 35. den.* 2 E. 6. c. 25.

It holdeth no Plea of Debt or Damages to the *Co. Inst. 4.* value of Forty Shillings, or above; nor of Trespats *Wi Cap. 55.* & *armis*, because a Fine is due thereby to the King; yet if the debt be Forty Shillings, or above, and the Plaintiff will acknowledge in his Declaration the receipt of so much as to bring it within Forty Shillings, in this case the plaint is good. But if the Debt be above Forty Shillings, as Five Pounds, the Plaintiff cannot divide this into five several actions to make this Court hold plea of it; for in this case the Defendant may wage his Law, or have a Prohibition in *Ranco Regis.*

And of Debt, Detinue, Trespats, and other Actions personal above Forty Shillings, the Sheriff may hold plea

County Clerk.

by force of a Writ of *Justicies* to him directed, for that it is in nature of a *Commission* to him, and is not returnable. Neither doth this Writ alter the nature of the Court, for therein the Sheriff is not Judge, but the Freeholders or Suitors; yet all Judgments shall be pronounced by the Sheriff.

is here to be kept.

Stat. anno

2 E. 6. c. 25.

Stat. 15 H.

7. c. 24. 33

H. 8. c. 26.

This Court may be kept at any place within the County, at the pleasure of the Sheriff, but not out of it. Yet the Sheriff of *Northumberland* (by the Statute) is to keep his County-Court in the Town or Castle of *Alnwick*, and in no other place. The Sheriff of *Sussex* (by the Statute) is to hold his County-Court one time at *Chester*, and the other time at the Burrough of *Lewes*, and so to be kept *alternis vicibus* for ever: And also the Sheriff of the County of *Chester* is to keep his County-Court in the Shire-Hall of the said County. *Daltons Office of Sheriffs*, fol. 157, & 158.

To this Court all persons dwelling within the County owe suit, by reason of their residence; and therefore the suit there is called suit real; which to do, a man shall be amerced, not distrained, as he shall be for suit service.

No Fine.

No Fine can be imposed in this Court upon any offender, because it is no Court of Record. *Co. 8. 41. & 60. & 11. 43. Fitz. 73. d.*

Amercement.

But a man may be amerced for a contempt, or a disturbance of the Court, in the presence of the Court.

What Actions will not lie in this Court.

This Court will entertain no suits for Charters of Land, or for Inheritance, or for Freehold of Lands or any titles of Land, or to make several complaints upon one entire debt by Bond, or actions touching life, nor actions to compel one to render an account. See here fol. 12, & 13.

The Office of the County Clerk.

THE Sheriff being elected, which is done yearly in the morrow after *All-Souls*, in the Exchequer Chamber, by the Statutes 9 E. 2. & 14 E. 3. cap. 7. And the Kings Letters Patents do commonly bear date the sixth day of November, 12 E. 4. c. 1. unless it be in cases of necessity, that the Court is forced to adjourn it, (before the next County-day after his election, and discharge of the old Sheriff)

Sheriff) he ought to be very diligent in deputing and constituting a County-Clerk, such an one as is sufficient and able to keep the Court, that no corrupt dealing be in it, as he will answer the contrary : and that he be very skilful in entering the proceedings in it.

He ought to be endued with these qualities, according to the description of *Fleta*, *Provideat sibi Vlcecom' de Clerico circumspecto, & fideli, viro provido, & discreto, & gratioſo, humili, pudico, pacifico, & modesto ; qui in legibus, consuetudinibusque provincia, & officio Comit' cleric' se cognoscat, & jura in omnibus teneri affectet, quique sub-balivos in suis erroribus & ambiguis ſciat instruere & docere, &c.* Which is thus paraphraſed, That a County-Clerk ought to be endued and qualified with Circumspection, Fidelity, Providence, Humility, Peace and Modesty ; and must know himself (or be expert) in the Laws and Customs of the Country, and to have ability to instruct or direct the Bailiffs, or other Ministers, in dubious things wherein they may err. He must neither be attracted by price nor lucratory corruption, nor any sinister affection to wander out of the way of Right. *Qui nec (as Bracton adviseth) ad dextram nec ad sinistram, vel propter prosperitatem terrenam, vel adversitatis metum a tramite justitiæ declinet.*

The Sheriff (and not the King) hath power to delegate this Office to whom he pleaseth, as it appears in *Myttons* case in the fourth Report ; where Queen *Elizabeth* by Letters Patents did grant the Office of Clerkship of the County-Court of *Somerset* to *Myton*, with all Fees, &c. for life. *Arthur Hopton* Esquire, Sheriff of the same Shire, interrupted him, because it was incident to his Office. *Myton* complained to the Lords of the Council, and was referred to the two chief Justices, *Wray* and *Anderson*, and after many arguments concerning the validity of that Grant, and conference had with all the other Justices, It was resolved by all the Justices, *Nullo contradicente*, that the said Letters Patents were void ; and their reasons were, That the Office of Sheriff was an ancient Office before the Conquest, and of great trust, and Authority, for the King committeth unto him *Custodiam Comitatus* : And although the King may determine the Office *ad beneplacitum*, yet he cannot determine this in part, as for one Town or Hundred,

County-Clerk.

dred, nor, abridge him in any incidents to his Office; for the Office is entire, and ought to continue so without any fraction, or diminution, (unless by Parliament) and the County Court; and the entering of all proceedings therein, are incident to the Sheriffs Office, &c. And though it was granted when the Office of Sheriff was void, yet the new Sheriff shall avoid it; as *Scrags Case*, in the time of Vacation in the Office of Chief Justice of the Common Bench, Queen Mary granted the Office of the *Exigenter of London*, resolved, That the next Chief Justice shall avoid it, for it was incident to his Office. Also in all Writs directed to the Sheriff concerning the County-Court, the King says, *In Comitatu tuo*; and in return of *Exigent's* made by him, he says, *Ad Comitatum meum tenet*, &c. and the stile of the Court proves it. In a false Judgment it is said, *In pleno Com. tuo recordari facias*, &c. and in a Precept of Tolt, it is said, *Summontas*, &c. *quod sit ad Comitatum meum*: And it should be very inconvenient that another should have the custody of the Entries and Rolls of Court, which may be imbezelled, and the Sheriff responsible for them. And it was resolved that the custody of all the Goals within every County appertains to the Sheriff by right, and are annexed and incident by Law to the Sheriffs Office, *vide an. 14 E.3. cap. 10.*

He cannot execute the Office of a County-Clerk, and practise as an Attorney, both at one time, in being prohibited by the Statute of 1 H. 5. 4. being a cause of encreasing Suits, and a hinderance in dispatch of Clyents causes.

He cannot act any thing without the assent of the Suitors; if he do, an Action of Trespass lyeth against the Sheriff.

He must be careful in deputing honest, able and sufficient men, as Bailiffs, for the executing of the Precepts issuing out of the Court.

He ought to enter no Plaints (except in Case of *Replevins*) out of Court, but in full County (*Sedente Curia*) yet the use is otherwise at this day, and (as it seems) good enough, verilying the Proverb, *Communis error facit jus*.

He must make sufficient Precepts after the Plaints entered (but not before) against the Defendants, directed to his

Coroner.

his Bailiffs, to attach or warn the Defendants to appear at the next County-Court, and answer the Plaintiff.

The County-Clerk and Plaintiff, upon complaint of the party grieved, may be examined by one Justice of Peace concerning the taking or entring of plaints in the County-Court, and Book, against the Statute: If thereby the Justice find any fault or offence committed, that shall stand for a sufficient conviction and attainder without any further inquiry or examination. And the said Justice must certify the examination within a quarter of a year into the Exchequer, by the Statute of 11 H.7. cap. 15.

If a *writ of Discharge* of the ancient Sheriff be delivered to the County-Clerk, sitting in the County-Court, the authority of the said Sheriff (although absent) shall presently cease. *Dyer* 49.

At the adjourning of every Court, he must appoint a day certain for the next Court, to the intent the Country may know at what time they may resort thither to hear the *writs of Exigent and Proclamations* read.

The Office of a Coroner in this Court.

A Coroner is one of the principal Officers of this Court, being chosen in it (by a *Writ de Coronatore eligendo*, directed to the Sheriff) by the Freeholders or Suitors in open and full Court, and is published there; and after the Sheriff is to return and certify into the Chancery the election of every such Coroner, and their names; likewise the County-Clerk in Court must administer to the Coroner his Oath for the due execution of his Office.

The Coroner being thus elected and sworn, he is to sit there with the Sheriff every County-Court, to give Judgment upon Outlawries; which Judgment shall be given and pronounced by him in the fifth County, and there the Sheriff is to return the *Outlawry* with the *Exigent*: But by this Judgment no Goods are forfeited before the Outlawry appear upon Record: neither shall such an Outlawry disable the party.

Exigent

*Exigents
and Pro-
clamations
to be pro-
claimed
for County
days.*

*F. N. B.
163. idem,
395.*

Exigents and Proclamations are to be proclaimed Five County-daies one after another, and once in the open Sessions, and once at the Parish-Church door, where he doth or did lately dwell, that he appear, or else that he shall be outlawed. And if Proclamation be made five County-days, and at the fifth County-day the Defendant appear not, then the Coroner shall give Judgment that he shall be out of the protection of our Lord the King, and out of the aid of the Law. *F. N. B.* 163. But before I conclude, let me give you in brief, why a man is said to be outlawed, and a woman waived; *viz.* A man is said to be outlawed, because he is sworn to the Law, and now for his contumacy he is put from the Law, and said outlawed, as it were *extra legem positus*; but a woman is not so, but she is waived, and not outlawed, because she was never sworn to the Law. *Finch* fo. 116.

Of Attorneys in this Court.

IT was once objected to me, that no Attorney could legally practice in this Court, and that every man ought to prosecute his own cause himself: the Statute of *Wilmster* 2. cap. 10. That every man which oweth Suit to the County-Court may make a general Attorney to prosecute and follow his Suits in all Pleas: And likewise in the Statute of *Merton*, cap. 10. *Quod quilibet liber homo, qui sectam debet ad Com. &c. libere possit facere Attorn. suum ad sectas illas pro eo faciendas*: And an Attorney may do every thing in the name and as the act of him who gave him the authority, as if he did it himself: he is *aliorum negotiorum gestor*; for, *qui per alium facit, per seipsum facere videtur*: Likewise, these Statutes following do institute Attorneys in the County-Court, *viz.* 6 E. 1. cap. 8. 20 H. 3. cap. 10. &c. *F. N. B.* 156 I could instance many more, but I hope these are sufficient to stop the mouth of the opposers.

In their practice they ought to be honest and just, according to their office and oath, nor exciting men to suits especially such as are forreign, and illegal, nor for little Offences, and small debts, nor voluntarily (*argenti gratia*) delay their Clients, nor demand any sums of money for the Persecution of the Action otherwise than is allowed by the Court.

Of

Of Bailiffs.

A Bailiff is a Servant or Minister of the Law, and by consequence a servant to the party at whose suit he is to disstrain the goods of any one. Therefore he ought to be true, faithful and vigilant in levying of Distresses: he ought not to be exoculated with common rural bribes; (as too many of them are.) His Office is thus described by *Fleta*, *Ballivus esse debet in verbo verax, & in opere diligens & fidelis, ac pro discreto appruatore cognitus, plegiatus & clericus, qui de communioribus legibus pro tanto officio sufficienter se cognoscat. Et qui sit ita justus, quod ob vindictam seu cupiditatem non querat ut versus aliquos, &c.* He is to be contented with his Wages and Fees allowed him, which are certain and known (and as I have described particularly) being usually paid; and if he take more than he ought, or commit any error in the execution of his Office contrary to the tenure of his Precept, then is he to forfeit forty shillings, and to be convicted thereof by the examinations of the Justices of Peace, or any of them, 14 E. 3. cap. 9. And the Sheriff ought not (by his oath) to have any Bailiff, but such as he will answer for, and such as be true and sufficient men in the County, and make each Bailiff take an Oath for the true execution of his Office; (but such things are now not taken notice of.) And by the Statute of 27 El. 2. cap. no Bailiff, or other person ought to take a Distress, nor to execute any Process until he be sworn: But now common experience, and practice at this day bears testimony to the contrary. *Alfred*, once King of England, hanged Judge *Arnold*, for saving a Bailiff from death, who had robbed the people by Distress, and for extorting of Fees. If the like Law were executed upon some of our grand Malefactors, it would make the Remainder more honest.

What Actions may be brought in this Court.

HAVING precipitated my self thus far, before I enter upon the proceedings of the Court, I will demonstrate the grounds and cause of proceedings, and that is Actions, which

Bract. l. 3. f. 98. which is the form of a Suit, given by Law to recover a mans right : or, *Actio nihil aliud est quam ius prosequendi*
Fleta. l. 1. in judicio quod sibi debetur. Therefore what Actions will
cap. 15. hold in this Court, take as follows.

8 Eliz. Dyer. 246. Devant le Viscount Sole, sans les Coroners, pleas sont
 tenus per voy de plaint, de personel actions, que sont a
 recover ascun somme desouth 40 s. Come Trespasse, Det,
 Detinue, Covenant, Assumpsit, ou tiel, Mes n'ey Replevin ou
 Accompt, tout soit si somme cypoy : Car ils ne sont a recover
 ascun somme, eins l'un est pur aver les biens destz deliver,
 l'auter pur accompt render. Et trespasse, ou tiel, ne gist icy de
 damages desuis 40 s. mes supersedeas gist al viscont sur di-
 vers plaints en le County-Court chescun desouth 40 s. quant
 tous sont pur un entiere de 10 l. ou sur action de Covenant
 port la damages desuis 40 s. mes nul vi serra la suppose, car
 donque un supersedeas gist en que le breve dit, que plea
 de trespasse, Quare vi & armis ne serra tenus en un infe-
 rior Court, elns solement devant le Roy, ou auter Justices
 per son commandment. *Finch Ley. 116. b. cap. 15.*

Fitz. N.B. 299. d.

All Actions of Debt, either upon an account made by
 the parties for wages after a hire, sums of money owing
 or due from one man to another, whether by writings or
 otherwise : It is grounded sometimes by writing, as an
 Obligation, Bill, Covenant, or other especialty ; some-
 times without writing, as an Arbitrament, Rent, Money
 lent, Parol, Contracts, or the like.

All Actions of Detinue, Trover and Conversion, De-
 ceit upon a Warranty, a Delivery, Nuisance, Case for
 Scandalous words, Case upon Assumpsits, and other
 Actions of the Case, as for a Dog killing Cattle, abusing a
 Distress, spoiling my goods, &c. Actions of Trespasts,
 Assault and Battery, &c.

Si ascun chose que concerne Franktenement vient en
 qu sion en un plaint de trespasse, ou tiel, le Court ne
 proceder, come lou defendant avow pur damage fea-
 sant, & plaintiffe justifie pur common de pasture : Mes suit
 per breise en le County-Court proceder. Et pur ceo en
 tiel case, sur plaint en le County-Court, partie n'ad re-
 medie forsque breise de trespass vicontiel ; Et per ceo
 vicont pget determine lissue com't que Franktenement
 vient en debate.

Fitz. N.B. 70. b. Br. Jurisd. 98. 14 H. 8. 15 b.

All these Actions would afford very much matter to
 treat

treat of at large: But (lest this Treatise should swell beyond its limits) I will refer you to the reading *Fitzherberts Natura brevium*, which doth learnedly treat of the nature of all Actions that lie in any Court of Judicature.

Within what time Actions must be brought.

ALL Actions of Debt grounded upon any lending or contract, as Book-debt without especialty, and for Rents in arrear: all Actions of Trespas, *quare clausum fregit*, Actions of Trespas, Trover, Detinue, and Replevin for taking away goods and chattels, actions of account, all actions of the case (except actions for slander) which shall be sued, must be commenced and brought within six years after the cause of such action or suit accrued; if the Plaintiff be then of full age, discovery, *compos mentis*, at liberty, out of prison, and in England; otherwise within such time after he becomes so, and not after.

Stat. 21.
Jac. 16.

All Actions of Trespas for Assault, Menace, Battery, Wounding and Imprisonment, within four years after the Cause of Action, and not after.

All Actions of the Case for Scandalous Words, within two years next after the words spoken, and not after.

Who may bring Actions, and who not.

Idiots, Mad men, or such as have *lucida intervalla*, such as are deaf and dumb, or any other man, woman or child (except persons disabled by Law) being wronged, may bring the proper Action appointed for remedy in that case; and all, or any of these, wronging others, may be sued. And if an Idiot sue or be sued, he must do it in person.

An Infant must sue by *Prochein amy*; and being sued, must defend by Guardian.

A Feme covert cannot sue but with her Husband.

An Outlawed person is disabled to sue any Action against any man in any Court of Law or Equity (yet as Executor he may sue, because it is not in his own right, but in trust for another) but any man may sue him, by *Co. sup. Lit.* 128. A man that is attainted in a *Præmunire*, may not sue in any Action, *Idem* 129. And a man that

The Proceedings.

is a convict Recusant is disabled, so long as he so continues.

No Barretor can maintain any Action in this Court, nor have Judgment, unless it be required by all the Suitors, *west. 1. cap. 3.*

But note, all these disabilities remain but during the continuation of the same impediment.

Of Pledges in this Court.

Pledges are obsolete, except it be for Forainers, or such as live out of the County, or out of the Jurisdiction of the Courts; or such as are unmarried, that have no goods distrainable; and it is if these be Plaintiffs: But if the Defendant should non-suit the Plaintiff, and have Judgment against the Plaintiff and his Pledges, I never yet saw the form of the Judicial Precept, that ever issued out to levy the costs upon the Pledges goods.

Of the Proceedings in the Court.

Because I would not have the Country, and young Practisers ignorant of the proceedings in the Court, which is the life of the practise; I thought it necessary to make an Abridgment of the Terms of Law now used in the proceedings. And first of Appearance, because it is the first thing done after goods attached.

Appearance.

The first thing the Defendant in any Action or Suit is to do, is to appear, and shew himself in person, or by an Attorney in the Court, to answer the Action, and defend the Suit.

Essoin.

He may also appear by an Essoin, which is an excusation, coming from the French word *Essoine*; it doth delay the Cause a Court-day longer; (the common Essoin is *de male vener*) and if he do not appear the next Court, then it passeth by default, Judgment entred, and Execution issues out against his Goods and Chattels. But after the Defendant hath once appeared in the Court by an Attorney, there shall be no Essoin allowed.

Duc. tec.

But if he appear neither by an Attorney, nor by *Essoin*, then further Process issues out against his goods and chattels, *viz.* The Precept of *Duces tecum*, and Attachment, and

and Distress upon attachment infinite, until he do appear.

After the Process executed, the next Court the Plaintiff is to appear and file his Declaration, to shew his cause of Action, or matter of complaint; in which must be shewn who complaineth, and against whom, for what matter, how, and in what manner the Action grew between the parties, and at what time and place the wrong was done; and in conclusion he must aver and profer to prove his Suit, and shew the damage he hath sustained by the wrong done unto him. Special care ought to be had that it be drawn in manner and form; yet by the Statute of 36 E. 3. cap. 15. a Declaration shall be good, if it have matter of substance, though the terms be not apt; however, to avoid doubts, and that the Attorneys may not depend altogether upon uncertainties, let them be diligent in taking right and full instructions from their Clients, and inform themselves of every *punctilio* which may be materially incident to the Case, that so they may know what manner of action is most proper to be brought on the behalf of their Clients. And note, That in good pleading the Law requires four things. 1. *Verity*. 2. *Certainty*. 3. *Order*. 4. *Congruity*.

In some cases, manner and form is chiefly to be looked at, but in other some not altogether so material. As if an Action of Debt be brought of the sale of a Horse for five pounds (where the bargain was for two Horses) the Defendant Pleads that he oweth him nothing in manner and form; the Jury ought to find for the Defendant, for that the bargain was for two Horses for five pounds; so manner and form there is material, and parcel of the Charge; and so it is in every case, where the Action varies from the Bargain or special matter.

But if an Action of the Case be brought by the Husband alone, upon an *Assumpsit* to him by R. the Defendant saith, he did not assume in manner and form, and the Plaintiff gives in Evidence of an *Assumpsit* made to his Wife, and his agreement to it afterwards; this is good, and manner and form is not material.

If an Action be brought before there is any Cause of Action, the Declaration is Insufficient. But if a Trespass was done the fourth day of May, and the Plaintiff declareth the same to be done the fifth, or the first day of May, when

no

Declarati-
on.

Nota.

Modo &
forma.

27 H. 8.
fo. 29.

no Trespass was committed, yet if upon evidence it falleth out that the Trespass was done before the Action brought, it sufficeth, 19 H. 6. 47. 5 E. 4. 21 E. 4. 66. And Littleton saith, That the Jury may find the Defendant guilty at another day than the Plaintiff supposeth; for the Law of England respecteth more the effect and substance of the matter, then every nicety of form and circumstance: *Apices juris non sunt iura.*

Note, That in Actions of debt upon *Emisset* for Wares, for Money, or other things lent upon an *In simul computassent*, Action of Trespass, Battery, or upon the Case, &c. you are not tyed to lay the certain day; but you may lay it any time after the cause of Action accrued.

If an Action upon the Case be brought upon an *Assumpsit*, the Plaintiff must declare upon the whole promise made and not upon part of it, else the Declaration is not good, *Mich. 22 Car. B.R.*

If there be words in a Declaration, which have no signification, or words superfluous, the words shall be adjudged to be void words, and shall not hurt the Declaration: but the Declaration shall be taken as if those words were left out of the Declaration. *Superflua non nocent. Hill. 23 Car. B.R. Pasc. 24 Car. B.R.*

A Declaration ought not to shew a thing by implication, it must be set forth expressly.

If the Plaintiff do alter his Declaration after the Defendant hath pleaded to it, the Defendant may alter his Plea. For by the amendment of it, it may be so altered in matter, that it may require a different answer from what was formerly pleaded; and in that case if he should not amend his Plea, he might be tried for want of a good Plea. *Prac. reg. fo. 235.*

Count. A Declaration is sometimes called a Count, as Count in Debt, *Kitch. 281.* Count in Trespass, *Brit. cap. 26.* Count in an Action of Trespass upon the Case for a slander, *Kitch. 251.* But a Count is more properly used in Real than Personal Actions; and a Declaration more applied to Personal than Real. *F.N.B. 18. a. 60. D.N. 71. a. 198. c. 217. a.*

Non-suit. If after Process executed, the Plaintiff do not appear and file his Declaration, and the Defendant doth appear upon such default the Plaintiff is non-suited, the Defendant may have his costs.

The Proceedings.

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In every case where the Plaintiff may have costs against the Defendant, there, if the Plaintiff be non-suit, or a Verdict pass against him, the Defendant shall have his Costs, as in Trespass, Debt, Covenant by Specialty, or upon Contract, Detinue, Account, Actions upon the Case, or upon the Statute for personal wrongs, 23 H. 8. cap. 11. Administrators nor Executors shall not pay any costs, neither upon Non-suit or Verdict, because their Actions are brought upon Debts or Contracts not made between them and the Defendants. But if they bring Actions for things done to themselves, as for the taking away of goods from them, &c. and they be Non-suit, or Verdict pass against them, in this case they shall pay costs.

After the Plaintiff hath appeared, and Declaration *Empanelment* filed, upon the appearance of the Defendant, *Empanelment* is to be entered: *Empanelment* is, when the Defendant being to answer the Suits or Actions of the Plaintiff, desireth some time of respite to advise himself the better what he shall answer; being nothing else but a *continuance* of a Cause till a farther day.

Now to Demonstrate what the word *Continuance* signifieth; it is, after a Suit is begun, and the Plaintiff hath Declared, he must continue his Suit from Court-day to Court-day, or else the adverse Party may take advantage of it; and this is called a *Continuance*, being but only a *Proroguing* of a Suit from time to time, to keep it in being; and this is by the Act or Order of the Court; and sometimes by the agreement of the Attorneys of both parties.

The Rule, or *days datus*, is when further day is given to the Plaintiff to put in his Declaration, or to the Defendant to put in his Answer; the time is usually the next Court day.

The next Court after the filing of the Declaration, and *Empanelment* given, the Defendant is to put in his Answer, which he Pleaseth and saith in Bar, to avoid the Action of the Plaintiff, either by confession and avoidance, or denying the material parts thereof. It must be legal, full, and perfect; for a bad or insufficient Plea is in Law as no Plea.

If Issue be not joyned upon the Answer, then the Plaintiff is to file his Replication to the Answer of the Defendant.

C

Defen.

Defendant, which must affirm and pursue his Declaration.

Rejoinder. Then the Defendant must put in his *Rejoinder* to the Plaintiffs Replication, which must pursue and confirm his answer: for every *Rejoinder* ought to have these two properties specially; that is, it ought to follow and enforce the matter of the Bar; and also to be a sufficient answer to the Replication.

Sur-rejoinder. If the parties be not at issue by reason of some new matter disclosed in the Defendants *Rejoinder* that requireth answer; then may the Plaintiff *Sur-rejoyn* to the said *Rejoinder*, if there be cause, but it falleth out very seldom. The *Sur-rejoinder* is a second defence of the Plaintiffs Declaration, opposite to the Defendants *Rejoinder*.

Demurrer. *Demurrer* cometh of the Latin word *Demorari*, to abide; and therefore he who demurreth in Law, is said hethat abideth in Law, *moratur*, or *demoratur in Legē*: whensoever the Counsel of the party is of opinion that the Declaration or Plea of the adverse party is insufficient in Law, then he demurreth or abideth in Law, and referreth the same to the judgment of the Court. Now there is no Demurrer in Law but when it is joyned; and therefore when a Demurrer is offered by the one party, as is aforesaid, the adverse party joyneth with him, and thereupon the Demurrer is said to be joyned, and then the case is by the Counsel of both sides argued.

Nota. When the Declaration, Answer, Replication, &c. are defective in respect of some circumstance of time or place, &c. it may be remedied by consent of the Court, or parties, or by a motion to the Steward.

Non sum informatus. *Non sum informatus*, is a formal answer of course made by an Attorney, whereby he is deemed to leave his Client undefended, and judgment passeth for the adverse party.

Nil dicit. It is a failing to put in an answer to the Declaration of the Plaintiff (in any action) by the day assigned; which if a man do, judgment shall pass against him, because he saith nothing to the contrary.

General Issues are these.

To an action of debt upon Specialty, *Non est factum*.

To an action of Debt upon contract, or upon a Statute, *Nil debet per patriam*.

To an action of the case upon an Assumpsit, *Non Assumpsit*.
To

To an action of Trespass, Assault and Battery, or Slander, *Non Culpabilis*.

To a contract without Deed the Plea is *Solvit*, or an Obligation made for the Debt, &c.

To an Obligation the Plea is *Solvit*, &c. but to plead payment to an Obligation without acquittance is no Plea. For an Obligation, or other matter in Writing may not be discharged by any agreement by Word, but by Writing; *numquodque dissolvitur, eo modo quo colligatur*. But to plead payment at the day to an Obligation with condition, though no acquittance by writing, it is good; for the condition is in nature of a Defeasance to the Obligation.

Plea specially to be pleaded.
Obligation

To an action of Debt, *Nil debet per patriam*; or, *per Legem*; or, *Solvit*.

If the Action be brought against an Executor, or Administrator, the ordinary Plea is *Ne unq; Exec. or, Pless Executors Administravit*, &c.

Against Executors or Administrators.

If the Suit be upon a Deed, or contract without Deed; that he was *Deins age* when he made the deed or contract. *Non-age*.

If it be against a Woman, that she was Covert; that is to say, had a Husband when she made the Deed or Contract. *Women covert.*

If upon an Arbitrament; that there was *nul tiel Arbitrament* legally made, or that he hath performed the award. *Arbitrament.*

Trespass, Damage-feasant, Rent.

If upon an action of Trespass Damage-feasant; that the Beasts came in by the default of the inclosure of the Plaintiff, or that he hath Title of Common there, &c. *Rent.*

If upon an Action brought for Rent, that there is no Rent in arrear, &c.

To an Action of Detinue, *Non detinet*; A release or gift to him by the Plaintiff; or that he did tender the thing sued for before Action brought; that the Defendant did deliver it to him as Pledge for ten shillings, which he had not paid, &c. *Detinet.*

To an Action of the Case for Slander, *Non culpabilis*; Slander, or justify the Words.

Case upon Warranty, *Non Warrentizavit*.

Upon a Bond or Bill, plead conditions performed, *Warrant, Debt.*

Per minas, per Durtis, Imprisonment, &c.

Upon a Demise, *Non Demisit*.

To Demisis.

Trespafs.

To Trespafs, *Non culpabilis*; an Arbitrament, Tender of amends before the Action brought, &c.

Nota.

If divers men do a Trespafs, and one makes a good accord, this will discharge, and be a Bar to all the rest, Co. 9. 79.

Liberum tenementum.

If Free-hold be Pleaded, this Court in that Case can proceed no further.

There are divers Pleas to Actions of Trespafs, some of one nature, and some of another, as Justification, &c. If the Defendant have matter of justification or excuse to Plead, he must be sure to Plead it specially; for if he Plead the general Issue, *viz. Non culpabilis*, it will be found against him.

Where the Defendant is not constrained to Plead a special Plea, he may plead the general Issue proper for the Action brought, and give the special matter in Evidence. For every Plea must be so framed, that it may give a full answer to the matter set forth in the Declaration, to wit, all such as are materially to be answered unto.

If one be sued upon an Obligation, he cannot be compelled to Plead before he have Oyer of the condition of the Obligation.

If an Obligation of an hundred pounds be made, with condition for payment of fifty pounds at a day, and at the day the Obligor tenders the money, and the Obligee refuseth the same, yet upon an Action of Debt upon the Obligation, if the Defendant plead the tender and refusal, he must also Plead that he is yet ready to pay the money, and tender the same in Court; but if the Plaintiff will not then receive it, but take Issue upon the tender, and the same be found against him, he hath lost the money for ever.

Nota.

Et hoc paratus est

verificare.

Et de hoc

ponit se su-

per patri-

am.

Et hoc pe-

tit, quod in-

quiratur per

patriam.

Every Plea must be offered to be proved true, by saying in the Plea, *Et hoc paratus est verificare*. And this is termed an averment.

If tender of Issue come on the Defendants part, the form is, *Et de hoc ponit se super patriam*.

If on the part of the Plaintiff, it is, *Et hoc petit, quod inquiratur per patriam*.

If Issue be taken upon these Pleas, and Jury thereupon warned to appear to try them, the Jury appearing, the parties may have their Challenges.

Chal-

Challenge of Jurors.

Challenge is said to be, where there is evident favour as Kindred, &c. the Juror of Alliance, Servant, Bertram, or hath some Action against the Challenger; Juror a Gossip of the Plaintiff; Juror Master to the Plaintiff; the Juror eat at the Plaintiffs cost, or take money for his charges. If the Juror was chosen Arbitrator for one party, but otherwise where he was chosen indifferent for them: The Sheriff or Balliff which make the Pannel, is of the Plaintiffs kindred: Those who have been attaint of false Oath, or were seen on the Pillory, or against whom there was judgment of life or member: Those who pretend to have some right in the thing demanded The Juror outlawed, if the Record be shewn. Juror attaint of Conspiracy: the Sheriff being Plaintiff, It was allowed for a principal challenge, that the Defendant was indebted to the Juror. If any one or more of the Jury be returned at the denomination of the party Plaintiff or Defendant, the whole array shall be quashed. If there be a Challenge for cozinage, he that taketh the Challenge must shew how the Juror is Cozin: If old within the age of one and twenty years be returned, it is a good cause of Challenge.

A Writ of Error was brought in the Exchequer Chamber, upon a Judgment given in the Exchequer between *Vicars and Langham*; and the Error assigned was, that the Sheriffs of London having returned a Jury, and they being called, and some not appearing, the Plaintiff prayed a *Tales*; and after the Jury made full by *Tales*; then the Plaintiff challenged the whole Pannel by exception to the Sheriffs, whereupon the Jury was quashed, and a new Jury impannelled by the Coroners, by which the Cause was tryed. Now the exception was, that the Plaintiff having prayed a *Tales* to the Sheriffs, and obtained it, was stopped to challenge the Pannel for exception to the Sheriffs; But it was resolved, that there could be no challenge, neither to the Pannel nor to the Poll, till first there were a full Jury; so that the Jury not appearing full, there was a necessity to have a *Tales*, or else the challenge could not have been taken; and so the Cause would have remained *pro defectu Juratorum* as the Plaintiff had not prayed it; for the Defendant would not, and so the

21 E.4.f.
11. & 63.
20 Ass. 11.
2H 4.f. 16.
4 E.4.f. 1.
2H.4.f. 14.
13 H.4.fol.
14 22. B.
2 Car. 177.
8 E.3.f. 69.
3H.6.f. 24.
9E.4.f. 49.
Brit. f. 134.
11 H. 4.fol.
40. 33 H.
6. f. 55. 18
H. 8.fol. 2.
8H.6.f. 60.
Pas. 31
Elix.
21E.4.74.
11H.4.c.9.
22 Ass. 11.
Mir. cap. 3.
Nota.
Challenge
may be taken
to the
Pannel
made by the
Sheriff, after
a *Tales*
prayed unto
him.
Esoppel
binds not
where it is
in force by
necessity.

judgment was affirmed. And note, that in this case there were none sworn before the challenge, but only impannelled. But if the principal Pannel do once appear full, then the Challenge must be taken to the Pannel before any be sworn, otherwise it comes too late. Likewise note, That where the Plaintiff sues his *Ven. fac.* to the Sheriff, he is not estopped thereby to challenge the Pannel for kindred or other cause that was before the *Ven. fac.* And though a Juror may be challenged for a cause happened since he was sworn, yet the Pannel cannot be so; for no ill affection of the Sheriff arising since the Juror sworn, can make the Jury suspected that was impannelled before. *Hob. rep. 235. Vicars & Langham.*

Nota.

An array made by the Predecessor of the Sheriff, was challenged and quashed for couesnage: It was resolved by the Justices, that it was at the Election of the Plaintiff to have a *Ven. fac.* to the Coroner, or else to the new Sheriff, *Mic. 3 Eliz. Dyer 188. See 22 H 6. 61. 18 E 48.*

Having now brought the Jury to the Bar, (and that they prove all honest and indifferent men) being sworn, bid them stand to the Bar.

If a full Jury do not appear, as many as make default may be amerced.

What Witnesses are not sufficient to give in Evidence, and what are.

THE word *Evidence* is of a different signification, as signifying authentical Writings of contracts; but here it is taken for proof of a matter in question, and at issue, by testimony of Witnesses before a Jury, and according to the Evidence the Jury are to give in their Verdict according to their Oaths.

And to demonstrate who are insufficient, and may be excepted against, they are such as are infamous, or persons attainted of Felony, or of a false Verdict, or of conspiracy, or of Perjury, or in a *Præsumptio*, or of Forgery upon the Statute of 5 E. 1. 14. and not upon the Statute of 1 H. 5. 3. and such as have had judgment to lose their ears, or stand on the Pillory, or have been stigmatized or branded; and Infidels, men not of sound memory, or not of discretion, or such as are interested in the cause, and may have

have benefit by the thing in question, these are not competent Witnesses; and a Wife cannot be Witness for, or against her Husband: but all other persons, though they be never so near in consanguinity, Tenants, Servants, Masters, Counsellors, or Attorneys, are allowed for competent Witnesses, *Co. Lit. fo. 6. Plow. 8. 12.* And these being required, must come in to give evidence, or they forfeit to the party damaged so much as the Court shall award, and must give him costs and damage. Statute of 5 Eliz. cap. 9. The Poet in two verses doth declare what things are required in a Witness, *A*

Co. Lit. fo.

6. Plow.

8. 12.

Conditio, sexus, etas, discretio, fama,

Et fortuna fides, in testibus ista requires.

The manner of keeping the Court.

THE Sheriff at the first Court which shall be after his Election and discharge of the old Sheriff, must read his Patent and Writ of Assistance, and nominate his under Sheriff and County Clerk: and 1. *Phil. & Ma. Cap. 12.* four Deputies (at the least) of the Replevins of the Case of the County.

Then enter the stile of the Court after this manner.

Prima Cur. Com. I. B. Ar. vic. Comitatus: predest. tunc. apud castrum Eborum die Lune 17 die Julii, Anno regni Ebor. ff. Domini nostri Caroli Secundi Dei gratia Anglia, Scotia, The stile of Franc & Hibernia Regis, fidei defensoris, &c. decimo the Court. quarto, Anno Dom. 1662.

Then command the Bailiff to make Proclamation three times, *Oyes, &c.* and say;

Proclamation.

All manner of Persons that have any thing to do at the County Court holden here this day before J. B. Esq. Sheriff of the County of Y. come forth and give your attendance.

Command the Bailiff to make Proclamation again, *Oyes, &c.* and say;

Proclamation.

All manner of persons keep silence, and hear the Kings Majesties Writs of Exigent and Proclamation read.

A Coroner is to be there then present to pronounce judgment of Outlary against those that do not appear upon the Exigent and Proclamation at the first County:

Proclamation.

Command the Bailiff the third time to make Proclamation. *Oyez, &c.* and say;

Essoyns and proffers. (before the Court three times) for this day. And then say; If any man will be *Essoyned*, or enter any plaints, let him come forth and he shall be heard.

Plaint.

Then enter your plaint in this manner.

A. B. versus C. D. de placito debti.

Then call the Plaintiff thus;

A. B. appear, or thou lovest thy plaint, three times.

If he appear by an Attorney, then enter his Warrant of Attorney, *viz.* the two first letters of his name, over the name of the Plaintiff, and then file his Declaration.

Declaration

Then call the Defendant;

C. D. appear, and answer *A. B.* in an Action of Debt, (or as the case is) or thou forfeitest thy goods distrained, and further process will be awarded against thee.

If he appear, then enter his appearance, and an Imparllance, to put in his answer (to the Plaintiff's Declaration) the next Court.

Answer.

When the Defendant hath put in his Answer, if the Plaintiff joyns Issue, they may proceed to Tryal the next Court-day; except they proceed further by Replication. Rejoinder, &c.

Venire facias.

If they bear Issue, send out a *Venire facias* to summon the Jury.

Then enter on the head of the Panel, thus:

Inter A. B. quendam & C. D. def. in placito debiti.

When they are brought to the Bar, command the Bailiff to make Proclamation, &c. and say;

You good men that be imparlled to try the Issue between *A. B.* Plaintiff, and *C. D.* Defendant, answer to you in names, every man upon the first call, upon pain and peril that shall fall thereon.

If Twelve appear, then swear them one by one, in this manner.

The Oath of the Jury.

You shall well and truly try this Issue, between party and party, according to your evidence: To help you God.

And as they are sworn, enter by every man's name *juratus est.*

Being all sworn, bid them stand together, to hear their evidence.

Then

Then, swear the Witnesses.

The Oath of

The Evidence that you are to give to this Inquest, touching the matter in variance, shall be the truth, the whole truth, and nothing but the truth: so help you God.

Then let the Jury depart from the Bar, to agree upon their Verdict.

At their return, command the Bailiff to call every one by their names, and Count them.

Then ask them if they be all agreed on their Verdict.

Jur. Yea.

Who shall say for you?

Jur. The foreman.

Then call the Plaintiff: A. B. appear, or thou losest thy Plaint, three times. Then ask the Jury.

Whether do you find for the Plaintiff, or for the Defendant?

Jur. For the Plaintiff.

What damages do you assess?

Jur. 2d.

What costs of Suit?

Jur. 2d.

Hearken to your Verdict; this you say, you find for the Plaintiff, and assess damages 2d. and costs of Suit 2d. so say you all.

Jur. Yea.

Then bid the Plaintiff pay the Jury.

If the Verdict find matter incertainly, or ambiguously, it is insufficient, and no Judgment ought to be given thereupon: as if an Executor plead *plene Administravit*, viz. fully Administred all the Goods and Chartels which were of the Testator, and the same is joyned thereupon, and the Jury find that the Defendant hath Goods within his hands to be Administred, but find not of what value, this is incertain, and therefore insufficient. 17 E. 3. 47.
18 E. 3. 48.
22 E. 3. 2.
18 E. 3. 56.
15 E. 3.
Judg. 58.
&c.
Hil. 25. E.
liz. Mic.
28 & 29.
Eliq. inter
Gommerfal
and Gomer-
fil, &c.

A Verdict that findeth part of the Issue, and findeth nothing for the residue, this is insufficient for the whole, because they have not tryed the whole Issue wherewith they were charged; but if the Jury give a Verdict of the whole Issue, and of more, &c. that which is more is Surplusage, and shall not stay Judgment; for *utile per inutile non vitiatur*; but necessary incidents required by the Law the Jury may find.

The

Adjourn-
ment.

The Court being ended, adjourn the Court to another day to be kept, commanding the Balliff to make Proclamation. *Oyes, &c.* and say;

All manner of persons that have any more to do at this Court, let them come forth and they shall be heard, otherwise they, and every one else, may depart for this time, and keep their hour here on Munday the fourth day of August next, by nine a clock in the morning, &c.

Now the Court being done, and the Defendant Condemned by Verdict, then (judgment being entred) a *Fieri facias* shall be awarded to make levy of his goods; and thereupon the Defendants goods shall be taken, paid and sold, to satisfy the party Plaintiff; and if the Defendant hath no goods whereupon levy may be made, then the Plaintiff rests without remedy in this Court: for being no Court of Record, no *Capias* lies.

Of Distress.

Considering the many wrongs the Country hath sustained by those Locusts, that Litigious Generation of men, a clamorous company, *qui ex injuria vivunt*, Seminaries of Discord, worse then any Polars by the high-way side, *monstra hominum, rabulas forenses*, irreligious Harpies, Scrapping, griping Catchpoles, Balliffs, and corrupt practisers, and how much the ignorant people are abused and deceived, yea, many times (as the sad experience of many will inform us) ruined and utterly undone by them, they being the sole cause of those ignominious aspersions cast upon the Court: The advantage that it would produce to the Common-Wealth is Inexplainable, if the Statute of 1 H. 5. c. p. 4. were observed; that is, that Sheriffs Balliffs one year, not to be in that Office in three years after, because by their continual being in that Office, they grow so crafty and cunning, that they are able to deceive the Sheriff, and ruine the whole Country. Therefore that the Country may not be altogether ignorant of their seeming authorised actions, I will declare what and when they may Distrain; and what, and when they may not.

But first to declare what a Distress is.

A Distress is either said to be real (that is) when Land is distrained upon a *grand capte*, or *petit capte*, of which we have

have nothing to say here : or it is said to be personal, *Bro. 146.* where moveable things are Distrained ; and this is that *Finches* we are to speak unto : Therefore a Distress is where one *Ley 135.* doth take and distrain the Beasts, Cattle, and other things *Co. sup.* of another man, in some ground or place, for debt, rent, or *Litt. 97.* other duty behind, or for some wrong or damage done.

The Sheriff, nor his Officers, cannot break a mans House in the Night-time to execute any Process, or to do any ministerial act : for the Law giveth no colour to break a mans House by night, unless an Utlary, &c.

None can be distrained that are out of the jurisdiction of the Court. *Marl. cap. 2.*

No Distress can be made in the Night, but for Damage feasant.

The Bailiff may attach a man by his Goods, citing him to appear, and answer such a day, at such a mans suit, in such a Court, and for such a Cause : or he may only give the Defendant warning (in the presence of two others) to appear such a Day, in such a Court, at such a mans Suit, and it is sufficient : and if an Attachment be made, it must be of such goods (of the Defendants own proper goods) as are moveables, viz. by meer Chattels personals, which may be forfeited by Outlary, and not Immoveables.

A Bailiff cannot sever Horses joyned to a Cart.

Sheep may not be Distrain'd, if there be a sufficient Distress besides.

No man shall drive a Distress out of the County where it was taken.

A Distress may not be impounded in several places, upon pain of five pounds, and treble damages.

A man cannot work goods distrain'd, nor convert them to his own use.

The goods of any man may be taken in any place within the County, in another mans house or ground, as well as his own.

If a Bailiff Distrain or Attach the Horse of a Master, where the plaint is against the Servant, Trespass lies for the Master against the Bailiff ; for the Bailiff ought to take notice at his peril whose goods he distrains or attaches, *13 H 4. fo. 2. 14 H 4. 24. 11 H 4. 90. Dr. and St. 139*

After Distress or Attachment made, if the Bailiff doth not

not return his Precept the next Court, Trespas lies against the Bailiff for the Defendant, and an Action of the Case lies against him for the Plaintiff for not returning the Precept. 10 E. 4. f. 18. 2 H. 7. f. 3.

By Choke. If one take Beasts in the name of a Distress, he ought to put them into an open Pound, for that he who is Distrained may give to them sustenance; but if he Distrain dead Chattle, he may put them where he will; but if they spoil in his default, he must answer for them. 19 E. 4. f. 2. b.

If goods Distrained be put in an open Pound, and they dye, it is the loss of the Owner; but if they be put in another place, it is otherwise. 39 H. 8. Fitz. Distress 6. He that Distrains Beasts may put them in a close House, if he will give them meat; for the putting of them in an open Pound, is but to the intent that the owner may give them meat. 1 & 2 Phil. & Mar. cap. 12. Tit. Distress. That no Distress shall be driven out of the Hundred, unless to the open Pound, nor above three miles.

Where a man Distraineth Cattle Damage-feeasant, or for Rent, or service, and puts them into the common Pound, or into another Pound or Place, and he who hath property in the Cattle, or other person, taketh the Cattle out of the said Pound, and driveth them where he pleaseth, he who Distrained them may have a Writ at *parco fracto*, Fitz. Na. Br. 293. E.

A man may not Distrain for any Rent or thing due for any Land, but upon the same Land that is charged therewith; but in case where I come to Distrain, and the other seeing my purpose chaseth the Beasts, or beareth the thing out, to the intent that I shall not take it for a Distress upon the Ground, then I may well pursue; and if I take it presently in the High-way, or in another's ground, the taking is lawful as well as upon the same Land charged; to whomsoever the properties of the goods be.

If one Distrain my goods that are not distrainable by Law, I may have a general action of Trespas, or an Action of the Case against him at my choice. Co. 4. 94.

The Distress must be reasonable, somewhat proportionable

enable to the thing or cause for which it was taken: and yet if the cause be so that a man cannot take a Distress of less value, and the thing be after a sort entire, as in the Distress of a Cart with its carriage, or with the Horse or Oxen annexed to them, for twenty Shillings, though there be much inequality, yet may it not be unreasonable. *Marl. 1. 4. 22 E. 4. 15. 20 E. 4. 3. 41 E. 3. 26.* But such Distresses as are either excessive for Magnitude, as if one take four Sheep for four pence, or four Oxen for two shillings, or the like; these are unlawful Distresses, for which the Bailiff or Distrainer shall be punished: *Excessus in re qualibet, in jure reprobat.* Yet if he take a Horse or Ox for two pence, where no other Distress is to be had, it is not excessive; but if there were a Sheep or other goods somewhat proportionable to be taken, there it is excessive and punishable. *Co. 2 part. Inst. 107. 15 H. 3. Marl. 4. Co. 11. 44. 4. 8 H. 4. Fitz. Na. Br. 174. 45 Ed. 3. 26.*

If one Distrain my Kine great with Calf, and by driving they lose their Calfs, I may have an Action of the Case. *F.N.B. 86.*

If Goods be impounded in a close House, or secret place, so that the Defendant cannot come to feed them, and the Goods do perish for want of sustenance, the Distrainer must pay for them. *33 H. 8. tit. Distress 66.*

If the Distrainer give the Cattle meat in the Pound, he cannot compel the Owner of the Cattle to pay for this; for the Distrainer is not compelled by Law to give them sustenance: and if they do agree after the Distress upon a sum, yet this is no excuse, but it is for their deliverance; but if they do agree at the time of the Distress taken, that he should give them meat, and that he should have twenty Shillings (or a certain propounded sum) for the same, this is a good bargain. *21 E. 4. 43.*

An Action of Trespass was brought upon the Statute, that none should be distrain'd by his Cattle in the Plough so long as any other reasonable Distress may be had: and the Plaintiff declared the taking to be against the Statute, and did not specially shew that he had other Cattle to be Distrained; yet it was adjudged good for the

Distress.

the Defendant to alledge this, 4 E. 3. & 18 E. 2.

Stuff sent to the Taylor, Weaver, Fuller, Sheerman, Miller, &c. shall not be distrained, for these Officers are necessary for the Commonwealth; and the like law is of and in the Common Inn.

A Distress must be of a thing whereof a valuable property is in some body; and therefore Dogs, Bucks, Hares, Does, Cunnies, Bees, and the like, that are *stra nature*, Apparel, Armour, cannot be distrained. Yet though it be of a valuable property, as a Horse that a man rideth upon cannot be distrained.

If a man come into a common Inn, his Goods and Beasts shall not be distrained there, because then it would be prejudicial to the Commonwealth.

Also Goods and Chattels brought into a Fair or Market to be sold, shall not be distrained. *Per Cur. Mich. 7 H 7. fo. 12. 10. H 7. fo. 21.*

Windows, Doors, Tables fixed on a Post, a Furnace, Pales, Timber, Boards fixed on the ground, Glass, Millstone, &c. cannot be distrained, nor forfeited by Outlawry: but if these are not used in a house, but standers by, then they may be distrained. *Mic. 21 H 7. fo. 13. Pasch. 14 H 8. fo. 25. Trin. 21 H 7. fo. 27.*

If a Bailiff come to a House to distrain, the doors being fast shut and barred, and with his hand through a crevice or hole did shove the Bar, and open the door, and did take out two Cows in the name of a Distress, and because he did take a Distress in this manner, it was adjudged the Distress to be wrongful. *Fitzherb. abridg. Distress 21.*

No goods shall be distrained but the proper goods of the party, and not pledges, nor yet borrowed goods. 35 H 6. fo. 25. *per Moyle Justice.* And it is not of Chattels real, as a Lease for years, nor of apparel. 7 H 6. 9.

A Distress made by the Servant of the Bailiff is good. 25. Aff. 6. 7.

If a man distrain Cattle, and they of their own accord come home to the owner, he who distrained them cannot take them again, by reason of the first Distress, except he doth freshly follow them, *per D. nby Justice*, because of the negligence of the Distrainer, 9 E. 4. fo. 2.

If a man come to Distrain for Damage-feeasant, and see the Beasts in his ground, and the Owner chase them out
of

of purpose before the Distress taken, the Owner of the ground cannot distrain them; and if he doth, the Owner of the Cattle may rescue them, for the Beasts must be Damage-feasant at the time of the Distress. 16 E. 4. 10. *Assumpsit* 182.

A Horse cannot be distrained while the Owner thereof is riding upon him, or leading him; nor if he be tyed at a Mill and came thither with grist; nor a Horse tyed at a mans door, the Owner being gone into the house on some business. *Pas. 39 Eliz. Co. B.* adjudged.

If a Beast be unruly in the Pound, as if like to leap over the Pound, it seems the Distrainer cannot justify the tying him to the Pound, nor the fettering of him. *B. & Trespas* 250. 27. *Ass. pl.* 64.

None shall distrain wrongfully, upon the penalties provided upon the Statute of *Marlb. wist.* 1. 16. 3 E. 1.

None shall procure any to distrain another, to make him appear at the County Court, or any other Inferiour Court, on purpose to vex him, and put him to charge and trouble, on pain to make Fine to the King, and to pay the party grieved treble damages. *wist.* 1. 36. 13 E. 1.

An Axe that is in a mans hand cutting of Wood, nor goods that are impounded, and in the custody of the Law, cannot be distrained, being distrained already, Damage feasant.

If one distrain my Cattle, or Goods, without any cause or colour, that is not good and just: or if a man having distrained my goods, will not tell me, requiring it, and offering to give satisfaction for what cause he distrained them; or if having cause to distrain, he do distrain Beasts not distrainable, as beasts of the Plough, or Sheep; or if having distrained Beasts distrainable, he afterward abuse them, as if being a Horse or an Ox he work it, or being unruly he fetter it, or lay it so as it be thereby hurt; or if he put the distress in an unknown place, that I cannot tell how to come to it to feed it; or if he take them out of the County, and put them into a Pound in another County; or if he distrain them in a place not distrainable: In all these cases, I may have an action of Trespas against him, *Co. B.* 147. *D. & St.* 112. *F. N. B.* 45.

What

What Goods may be taken upon Execution.

Execution is a judicial Precept, issuing out after Judgment, properly called a *Fieri facias*, and lyeth where a man hath recovered in any Action lying in this Court, either by default or Verdict, then he that hath recovered may have this Precept, commanding the Bailiff to levy the moneys (so recovered) of the Goods and Chattels of the Defendant, and to bring it into the Court, that the party Plaintiff may have it.

The Bailiff may (by virtue of this Precept or Warrant after Judgment) distrain the Defendants goods, and detain the Distress in his hands in safe-guard, till the Defendant hath satisfied the Plaintiff of the Condemnation. 22 Aff. 27 E.N.B. 163. and 4 H.6 fol. 17. *Action.*

The Bailiff upon this precept is to do his utmost endeavour to levy the money upon the Goods and Chattels of the Defendant, and for that purpose to enquire and search if he can find out any Goods and Chattels of his, whereof Execution may be made; and it will be wisdom in the Plaintiff to make a diligent search, to see if he can find out any thing to be taken hold of; and if he can discover any, to direct the Bailiff to it, who *ex officio* is to take it, and sell it; and if he cannot sell it, he is to return it so, and thereupon a Precept called a *Venditioni exponas* shall be sent to the Bailiff, to force him to sell it, and pay the Plaintiff.

Goods taken in Execution must be praised, and Execution made of them. 27 Aff. 72.

Where erroneous Judgment is given, the Officer which doth the Execution is excused. 22 Aff. 64. But the contrary, if Judgment be given that is void: for where Judgment and Execution is of a thing whereof they have no jurisdiction, there Trespass lies against the Officer for executing it; but if Judgment be there but erroneous, and so void, false judgment lies, and no Trespass against the Officers. *Plowdens Com.* 394.

If after Judgment a man doth sell his Goods, to defraud me of my Execution, and nevertheless taketh the profits of them; if it be so found, I may have Execution of the Goods sold by fraud. 43 E.3.f.2.22 Aff. 72.50 E.3.

If the Bailiff hath a *Fieri Facias* against a man, and before Execution he payeth the money, in this case he cannot do Execution after; if he do, an Action of Trespass lyeth against him. B.R. Pasch. 12 Car.

If the Sheriff open or break any House to do Execution at the Suit of a common person, the execution is good; but the party whose house is broken, may have an Action of Trespass against him for the breaking of the House. Co. 5. 93.

If the Sheriff levy money upon an Execution, and giveth it to the Plaintiff, though he never make any return to the Court, it is good enough. Co. 5. 90. 4. 67. 11. 40. 20 H 6. 24. 4.

If a man hath a Judgment in this Court against the Plaintiff or the Defendant, and the execution is deferred in favour of him, the party grieved may have a Writ *de Executione Judicii* from above to hasten it. F.N.B. 120.

This Writ *de executione Judicii* is directed to the Sheriff in whose County the execution ought to be done; and if he will not do execution, the complainant shall have an *Alias* and a *Pluries*, with this clause in the Writ of *Pluries* (*vel nobis causam signific. &c.*) And if he do not execution upon this Writ, or return not some reasonable cause wherefore he delays the Execution, the party shall have an Attachment against the Sheriff returnable into the Kings Bench or Common Pleas, and must be directed to the Coroners (returnable as above said) to answer, &c.

Goods pawned shall not be taken upon Execution for the debt of him who pawned them, during the time they are pawned. 24 H 8. Pledg. 28. & 4 E 6. Distress 75.

By *Fieri Facias* (or *Levari facias*) the Bailiff cannot break the door or chest to take goods in Execution: for if he do, Trespass lyeth against him for the breaking only, and not for taking the goods in Execution, 18 E 4. f 4 & 13 E 4. f. 9. by Choke, notwithstanding 8 E 2. sit. Extentors, 15 2. to the contrary.

If a man letteth to farm by the year, Oxen, or Cattle, and after the Lessor is condemned in an Action of Debt, these Cattle and Oxen demised, during the term, cannot, nor shall not be taken in execution for this debt. 22 E 4. f 10.

Replevin.

A Bailiff cannot pull the latch to open the door, if it be shut, to make a Distress. *Co. 5. 91. 93. Dyer 97. 224.* But if the out-door of the house be open, the Sheriff may go into the house and take any thing there liable to Execution; and being come in at the open door, it seems he may break open any one of the inner doors. *18 E. 4. 4 Co. 5. 90. Co. 4. 74.*

Of the Replevin.

Cattle being distrained for Rent, damage-tenant, &c. the owner of the Cattle must go to the County-Clerk (or someone of the Deputies appointed in the County for the granting out Replevins) to have a Replevin directed to the Bailiffs to replevy them; and the party must be bound in an Obligation to the Sheriff, to prosecute his Action against him or them that did take the Cattle, and to make return of the same Cattle to the Distrainer, if he by justification or avowry do recover. And if he pursue it not, or if it be found or judged against him, then he that took the Distress shall have again the Distress, and that is called *return. averiorum*, and he shall have in such a case a Writ from above, *de Returno habendo*.

It appeareth by the words of the Statute of Marlebridge, cap. 21. *Quod Vicecomes post queremoniam inde sibi factam, ea sine impedimento vel contradictione ejus, qui dicta averia ceperit, deliberare possit*: by which words it appears, that a Plaint must first be entred in the County court, before the Sheriff can make a Replevin. But yet upon the said Act, the Sheriff may take a plaint out of the County-Court, for that it would be very inconvenient for the owner to forbear his Cattle till the County-Court day. *Co. 1 part. Inst. fo. 145.*

This Replevin may be returned out of the County into the Kings Bench or Common Pleas, by a Writ of *Recordari fac.*

If the goods cannot be taken by the first Replevin, then issue forth an *Alias*, then a *Pluries*, then a *Toties quoties*: and if none of these will do, then a *withernam*.

The suing of a *withernam* is after this manner.
withernam. If the Bailiff return at the next County, upon the *Toties quoties*, that he cannot Replevy the Cattle because they

they are essoyned, or that he cannot have view of the Cattle, then the Sheriff ought to make inquiry if it be true which is returned; and if it be so found out, he shall make a precept to the Bailiff in the nature of a *withernam*, to take as many Cattle of the other party: and if the Bailiff upon the *withernam* thus awarded return, that the other party hath not any thing, &c. he shall have an *Alias* and *Pluries*, and so *ad infinitum*, and hath no other remedy in this Court.

Note, that Cattle taken in *withernam*, *ad valentiam*, that is, to the value of the Cattle that were first distrained, (and so detained, that the Sheriff cannot execute the *Replevin* brought for them) is to be understood not of the number of the Cattle first distrained, but according to their full worth and value. For otherwise he that bringeth the *Replevin* and *withernam* will be deprived of his satisfaction he ought to have in case the Distress were not lawfully taken.

But now to return again to the *Replevin*: if the thing distrained be put by the distrainer in a place where the Sheriff cannot come to them to make a *Replevin*, he may take *Posse Comitatus*, *viz.* the power of the County, and after demand of the Chattels, he may beat down the door or place where they are, to take them; and the owner of the goods shall recover double for his loss what ever it be.

How the Distress is to be used.

The Sheriff upon the complaint made to him upon taking of Cattle may command his Bailiff by word to make a *Replevin* of them, and it is as good as though he had made his Precept to the Bailiff. *Fitz. 6.9.*

He that hath the *Replevin* must have either a general or special property in the thing; as of goods pledged, or the like; and it must be in him at the time of the taking, or otherwise he cannot have or maintain the *Replevin* for them.

Divers mens Cattle being taken, they may not joyn in one *Replevin*, but must have several *Replevins*.

A *Replevin* ought to be certain in setting forth the number and kinds of the Cattle distrained, otherwise it is not good; because if it be not certain, the Sheriff cannot tell how to make deliverance of the Cattle, because he knows not particularly what the Cattle are that were distrained. *Trin. 23 Car. B.R.*

Replevin.

If a man taketh and impoundeth goods, a Replevin may be of more cattle then were impounded : for if a man distrain Cows or Ews, &c. and they have in that Pound Calves or Lambs, the Plaintiff shall have a Replevin for them all : and by *Lit.* it was adjudged, *Mich. 8. E.* 3. That if any man distraineth and impoundeth a Sow great with Pigs in the Pound, the Owner shall have a Replevin for the Sow and Pigs.

If Cattle be distrained, and a Replevin is sued, the Defendant doth avow for taking of them Damage-feasant, or for Rents, Customs, and Services, and are at Issue ; and after the Plaintiff is non-suit, or otherwise barred, he shall lose his costs and damages, by the Statute of 7 H. 6. cap. 5. But by the Stat. 21 H. 8. it is clear. *Pass. 14. Mar. Dyer.* 141.

If a man by his Deed grant a Rent with clause of Distress, and grant further, that he shall keep the goods distrained against Gages and Pledges until the Rent be paid, yet shall the Sheriff replevy the goods distrained ; for it is against the nature of such a Distress to be irreplevable, and by such an intention the current of Replevins should be overthrown, to the hindrance of the Commonwealth. 13 E. 3. *Gage deliver. 5 Co. Inst.* 1 fo. 145. b.

If in this case the taker of the Cattle justify the taking as in his Freehold, then this Court can proceed no further therein, but the Cause must be removed by a Writ out of the Chancery, called a *Recordari facias loquelam*, directed to the Sheriff, returnable the next Term following, either into the Court of Kings-Bench, or Common-Pleas (to which the party pleaseth) but they are more properly belonging to the Court of Common-Pleas ; and this Writ must be openly read, and allowed in the same Court, to the end that notice may be given thereof to the Plaintiff in the Replevin, that he may appear at the day of the return thereof, and declare against the taker of his Cattle, otherwise the taker will have a *retor. habend. aver.* and put him to sue forth the second deliverance, which is a great disadvantage to the Plaintiff.

If a Replevin be sued out, and the Defendant doth avow for taking of them Damage-feasant, or for rents, customs, or services, and are at Issue, and after the Plaintiff is Non-suit, or otherwise barred, he shall lose his costs

costs and damages, Stat. 7 H. 6. cap. 5. 21 H. 8. *Pasc. 4. Maria, Dyer. 141.*

If the Plaintiff in a Replevin doth declare, that the Defendant had, and doth yet detain the Cattle, and the Defendant doth appear, and afterwards makes default, the Plaintiff shall have judgment to recover all in damages, as well the value of the Cattle, as damages for the taking of them, and his costs. *Mic. 8 H. 8. Rot. 108. Hughes Abridg. part. 3. fo. 1708. Replegiar.*

In a Replevin, the place was omitted in the Declaration; whereupon the Plaintiff demurred: It was holden by the Court to be a good cause of demurrer, for that the Plaintiff is bound to take notice where the Cattle are distrained; and a man cannot distrain for a rent-charge but in the day-time, because the party cannot take notice where the Distress was taken; and the Law doth presume that the Tenant of the Land, or his servants, are all the day upon the ground. *Hil. 12 Jac. in C. B. Read and Howes case. Brownl. 176.*

In a Replevin the Plaintiff declared, that the Defendant *cepit averia* of the Plaintiff *apud Occould*; and did not say, *in quodam loco, &c.* upon which the Defendant did demur in Law; the question was whether the expressing of the place where the taking and the distraining of the Cattle was, were material in the Plaintiffs Declaration, or not: It was objected for the Defendant, That the ancient form of the Register is set forth. And 35 H. 6. 40. Exception was taken to the Declaration, because the plaintiff in the Replevin did not alledge the place where the taking was: It was said by Cook Chief Justice, to which the other Justices inclined, that the effect of the Suit in this case is not the shewing of the place, but the taking of the Cattle; and it is to come on the part of the Defendant, to shew where he took the Cattle: for perhaps the Plaintiff knoweth not where he took them; and if he did know the place where they were taken, yet perhaps he hath not Witnesses to prove the same, and so by this means the Plaintiff should be at a mischief, and delayed in his Suit; whereas a Replevin is *festinum remedium* to have his Cattle again, which perhaps are his Plough Cartel. And in this case, upon the matter, the avowant is the actor, and he best knows where he took the Cattle. And

Process.

it is no reason that the Plaintiff missing the place, not being matter of substance, should be prejudiced in his Suit. Divers books were alledged, where the taking is alledged to be in a Town, without saying *in quodam loco*, and yet good. 4 E. 3. 13. 14 E. 3. 14. 21 H. 7. 23. 9 H. 4. in a *Homine replegiando* 13. The case was adjourned, *Tin. 10. Jac.* in C.B. *Read* and *Hawes* cases; *Godbolt* 186. See *Hob.* 16. the same case. 3 Cro. 896. adjudged to be ill without the certain place.

Of the Process of this Court.

THE Process of the Court, are either original, issuing out before Judgment; or judicial, issuing out after Judgment. Original is a *Distringas* or County-Warrant, &c. Judicial Process is only a *Fieri facias*, or Execution, directed to the Bailiff to levy the debt or damages, and cost of Suit recovered, of the goods of the Defendant, or of the Plaintiff if he be non-suited.

The Original Process, viz. *Distringas*, or County-Warrant, is, a precept issuing out for a Debt under forty shillings. Its form is as followeth.

Ebor. ff.

I.B. Ar. Vic. Com. præd. omnibus & singulis Ballivis meis infra Com. præd. & depurat. suis, salutem. Mando vob. & cullibet vestrum quod distring R.B. per bona & caralla sua infra Com. præd. Ita quod sit & compareat prox. Comitatus meum tent. apud Castrum Ebor. die Lunæ 10 die I. ad respondend. I.S. in placito debiti. Et quod tunc & ibidem certificet acta vestra in hac parte fienda. Dat. sub sigillo Officii mei decimo quinto die Martii, Anno Regni Dom. nostri Caroli Secundi Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis, fidei defensoris, decimo quinto.

Per eundem Vic.

If the Defendant do not appear the next Court after the *Distringas* executed; then farther Process issueth against him, viz. a *Duces tecum* to cause him to appear: If not upon the first *Duces tecum* he appear, you may have an *Alias Duces tecum*, and a *Pluries Duces tecum ad infinitum* until he appear, and no other remedy here. The form is thus.

L.B.

Original Process.

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I.B. Ar. Vic. &c. Omnibus, &c. salutem: Vobis & cui- **Ebor. ff.**
libet vestrum conjunctim & divisim mando quod ducatis **Duces te-**
vobiscum, & habeatis apud Castrum Eborac. ad proximi- **cum.**
mum Comitatus meum omnia bona & catalla **R.B.** quæ
nuper virtute alius præcepti vobis prius directi, distrinxi-
stis ad sectam **S.D.** Et quod ulterius distringat prædictum
R.B. per alia sua bona & catalla in Com. prædicto, Ita
quod sit apud Castrum Ebor. præd. ad proximum Comi-
tatum meum, tent. die Lunæ, &c. ad reddend. præfat
S.D. in placito debiti. Et habeas ibi tunc hoc præceptum.
Dat. sub sigillo Officii mei 20 die Junii Anno Regni
Dom. nostri *Caroli*, &c. decimo quarto, &c.

If you have your *Distringas* or *Duces tecum* special,
Then the form is thus.

I.B. Ar. Vic. Com. præd. omnibus & singulis Ballivis **Ebor. ff.**
meis & deputat. suis in & per Com. præd. nec non R.S. **Alit.**
& .Jw. Ballivis meis hac vice specialit. deputat. salutem,
&c. ut supra.

Of the Writ of Justicies.

THis Writ issueth out of the Chancery, directed to the
Sheriff, giving him power to hold Plea in this Court,
in Actions of Forty shillings, or above: and though it
be directed to the Sheriff, yet are the Suitors Judges. It
is called a *Justicies*, because it is a *Commission* (and no ori- 3 H. 6. 54.
ginal) to the Sheriff to do a man justice and right: and 7 E. 4. Br.
though it be *quod Justicies B.* yet the Sheriff is not Judge Just. 3.
therein, but the suitors, and a Writ of false Judgment li-
eth upon their erroneous judgment; and it requires no
return, unless the Action be removed by a Writ of *Re-*
cordare, and then the Writ must be returned together
with the Record.

Plusieurs actions d'un nature poyent estre joyne en un Justicies **Fitz. N.B.**
ou seversal precepts, & le vicount Oyer & Determiner eux per **86.a.**
enquest, solongue order del Common ley. Mes ceo Justicies ne
alter le nature del Court; Car les suitors sont la Judges, les
pleas ne sont de record coment que soit per briefe de Faux judg- **b.6 E. 4.4.**
ment gist. &c. **35 H.6. 5.**

Original Process.

The form of the Precept upon the Writ, is as followeth,

Ebor. ff. G.M. Ar. Vic. com. præd. omnibus & singulis Ballivis meis infra com. meum, & deputat. suis, salutem. Virtute brevis Dom. Regis de Justiciis mihi directi, vobis & cuilibet vestrum conjunctim & divisim mando quod vos vel vestrum aliquis justiciet. I.C. ita quod sit & compareat ad prox.com. meum tent.apud Castrum Ebor. die Jovis, &c. and respondend. E.L. de placito debiti: & qualiter hoc præceptum fuerit execut. mihi ad prox. com. meum præd. certificetis. Dat. sub sigillo Officii mei xxii die *Augusti*, Anno Regni Dom. nostri *Caroli Secundi Dei gratia Anglie, Scotiae, Francie, & Hibernie* Regis, Fidei Defensoris, &c. decimo tertio.

Per eund. Vic.

A Replevin.

IF any goods be taken wrongfully (as before I have more at large declared) then the party grieved may have a Replevin, which must be made after this manner.

Ebor. ff. I.D. Ar. Vic. &c. omnibus & singulis Ballivis meis, &c. salutem. Quia G.A. ven. coram me, & inven. sufficien. securitatem tam de clamore suo prosequendo, quam de averiis suis retor. si retor. inde adjudicet. Ideo virtute Officii mei vob. & cuilibet vestrum mando quod vos five aliquis vestrum replegiari & deliberari fac. præfat. G.A. duas vaccas quæ H.I. cepit & injuste detinet, ut dicitur. Ac etiam quod ponatis, five aliquis vestrum ponat per vadi-dos & salvos plegios præd. H.I. ita quod sit & compareat apud Castr: Ebor. ad prox. Com. meum ibidem tent. die Martis, &c. ad respondend. præfat. G.A. in placito captionis & injuste detentionis averior. suor. præd. Et qualit. hoc præcept. &c. ut supra.

And if the Cattle be not delivered by vertue of the said Replevin, then the Plaintiff may have an *Alias* Replevin, with these words, *vel causam mihi signific.* which Replevin must be made after this manner.

I.G. Miles, &c. omnibus & singulis Ballivis meis, &c. Ebor. ff. salutem. Quia G.A. ven. coram me, & invenit sufficientem securitatem tam de clamore suo prosequendo, quam de averiis suis retor. si retor. inde adjudicetur; Ideo virtute Officii mei, vobis & cuilibet vestrum conjunctim & divisim mando, sicut alias vobis mandavi, quod vos sive aliquis vestrum sine dilatione eidem H.I. repleg. & deliberari fac. duas vaccas quæ H.I. cepit & injuste detinet (ut dicit) vel causam mihi significet vel unus vestrum significet. quare mandata mea vobis inde directæ exequi nolueris aut non potueris: & quod ponat, &c. ut in al.

And if the Cattle be not delivered upon this Replevin, nor shew sufficient cause why he did not; then the party may have a *Pluries Replevin*, *vel causam mihi signific.* which must be made *verbatim* as the *Alias Replevin* was made; and if return be made upon any of these Replevins, *quod averia elongat. sunt ad loca sibi ignot. ita quod averia illa præf. A.G. non potuit deliberar.* Then the Plaintiff may have a *Withernam*, which must be made in this manner.

I.G. Miles, &c. omnibus & singulis Ballivis meis, &c. salutem. Quia G.A. ven. coram me, &c. (sicut prius) vobis & cuilibet vestrum mando, sicut *pluries* vobis mandavi, quod vos] seu aliquis vestrum replegiari & deliberari fac. præfat. G.A. duas vaccas quæ H.I. cepit & injuste detinuit, & adhuc injuste detinet (ut dicit.) Et quod vos super diversa mea præcepta pro repleg. fieri vobis directæ certificet. quod animalia prædicta elongat' sunt ad loca tibi incognita. ita quod visum earundem habere non potueritis: ideo vobis & cuilibet vestrum mando quod vos seu aliquis vestr. capiat in *Withernam* catalla ad valentiam prædict. duarum vaccarum de catallis ipsius H.I. deliberand. præfat. G.A. pro duabus vaccis prædictis elongat. Ac etiam quod pon. per vadios & salvos plegios præd. H.I. quod sit & compareat apud, &c. ut in al. *Replevin.*

G.A. Ar. omnibus, &c. salutem. Quia apud Cur. Com. mei tenet. apud Castrum Ebor. die Lunæ, &c. anno, &c. mihi retor. fecistis, quod virtute precepti mei vob. sepe direct. venistis ad parc. H.H. ad locum ubi duæ vaccæ prædict. imparc. Ebor. ff. *Alias Capi-*
as in wi-
thernam.

imparcat. & detent. fuer. per præfat. H.H. & istæ duæ vac-
cæ elongat. fuer. ex parco prædict. ad loca voc. incogni-
ta, per præfat. H.H. ita quod duas vacc. præd. non potu-
eritis replegiare : ideo considerat. est per Cur. quod ave-
ria præd. H.H. capientur in *withernam* ad valenc. &c. Et
ista præd. aver. deliber. præfat. G.A. salvo & secure custo-
diri, quousq; præd. G.A. aver. præd. secundum legem po-
testis replegiare. & secundum mandat. mei præd. Ideo
vob. & cuilibet vestrum conjunctim & divisim mando
quod capiat, seu, &c. aver. præd. H.H. ad valenc. in *wi-
thernam*, & ea præd. G.A. deliberari causatis, seu, &c.
salvo & secure custodiri, usque, &c. Et quod distringat, seu,
&c. præd. H.H. ita quod sit apud Castrum Ebor. ad
prox. Cur. Comit. mei tent. &c. ad respondendum ei-
dem G.A. de præd. placito prædict. & respons. mandat
mei cognit. facietis, &c. apud prox. Cur. Dat. sub sigillo
Officii mei, anno, &c.

Nota.

Note, that when a Replevin is granted, there must be
a Bond taken of him to whom it is granted, or of some
other for him, with one or two sureties, to appear at the
next Court, and to prosecute his Suit with effect, or else
it may be prejudicial both to the grantor of the Reple-
vin, and to the Executioner thereof; and the form of
that Bond, and Condition thereof, is this.

*An Obliga-
tion upon a
Replevin.*

Noverint universi per præsent. nos A.G. de S. Com.
Ebor. Gen. & I.B. de eadem Villa & Com. Gen. teneri &
firmiter obligari G.M. Ar. Vic. Com. præd. in Centum
libris legalis monet. *Angliæ*, solvend. eidem G.M. aut suo
certo Attornato, Executoribus, Administratoribus vel
Assign. suis : ad quam quidem solutionem bene & fideli-
ter faciend. obligamus nos & utrumque nostrum, Here-
des, Executores, & Administratores nostros, pro toto &
in solido, firmiter per presentes. Sigillis nostris sigillar.
Dat. Vicesimo die Junii, anno Regni Dom. Caroli Se-
cundi Dei gratia *Angliæ, Scotiæ, Franciæ, & Hiberniæ, &c.*
Annoque Domini 1661.

*The Condi-
tion.*

The Condition of this Obligation is such, That if G.A.
do appear at my next County-Court to be holden for the
County of Y. at the Castle of Y. on Monday the, &c. next,
and

and do prosecute there with effect his Suit which he hath commenced against *H.H.* for the taking and unjust detaining of two Kine of the goods of him the said *G.A.* and to make return of the goods, if return of the same shall be adjudged: That then this present Obligation shall be void and of non effect, &c.

The Condition, &c. That whereas *G.A.* hath obtained *Or thus.* from the above-named Sheriff, a Replevin for the delivering of two Kine, and other goods distrained and detained by *H.H.* and others; if therefore the said *G.A.* do prosecute his Suit upon the said Replevin with effect, and do make return of the goods, if return thereof shall be adjudged; and also to save and keep harmless the said Sheriff, by reason of the said Replevin to him granted, as aforesaid, That then this present Obligation to be void, &c.

A Tolt.

Tolt, comes from the Latin word *tollo*, viz. to take away: it is a Precept by which a Cause depending in a *wapentake*, or *Hundred-Court*, or other inferior Court-Baron, may be from thence removed into this Court: The form is this.

I.B. Ar. Vic. Com. prædict. Senescallo, tum Ballivo Ebor. ff.
Hundredi de H. salutem. Informatus sum quod favorabiles, & non equales estis in placito quodam coram vob. in Curia vestra dependent. inter W.A. Quer. & R.M. Def. Ideo ex parte Dom. Regis, & virtute Officii mei, vob. & culliber vestrum mando, quod tollaris placitum sic dependent. coram vob. in Cur. vestra inter partes præd. ita quod habeam eundem placitum apud prox. Cur. Comitatus mei tenent. apud Castrum Ebor. die Lune, &c. in eodem statu & conditione, sicut nunc coram vob. dependet; & quod notitiam datis partibus prædictis de eodem die placitum prædictum prosecui, sicut iustitiae & equo appetitebit; & quod ab ulteriori prosecutione placiti præd. in Cur. vestram omnino superfed. & ultra in illo non proced. Et hoc, &c. Dat. sub sigillo Officii mei, decimo die Julii, anno, &c.

Apud

Hundred. de Apud Cur. Baron. tent. apud W. infra Hundred. de H.
H. ff. præd. die Mercurii ultimo die *Julii* anno Regni Regis *Ca-*
Retor. Pla- roli, &c. tempore I.B. Ar. Vic. Comit. præd.
ciortum. W.A. Queritur de R.M. defend. de placito debiti, dam.
 viginti solid.

Virtute istius præcepti mihi direct. Recordari & capi
 causavimus placitum depend. coram nob. in Cur. nostra
 inter partes infra nominat. & in eodem statu & conditio-
 ne sicut nunc pendet & partibus præd. prefiximus &
 dedimus notitiam, quod sint apud Cur. Comit. infra
 script. die & loco infra men. Placitum prædictum prose-
 qui, sicut justitiæ æquitarique pertinebit, prout istud præ-
 ceptum exigit & requirit. In cujus rei testimonium po-
 suimus man. & sigil. &c.

I.S. Steward.
 T.L. Bailiff.

Judicial Process.

Judicial Process issue out after Judgment, either by
 default, or *Nihil dicit* against the Defendant, or Non-
 suit against the Plaintiff. The form of Judicial Process,
 or a *Fieri facias*, is this.

Ebor. ff. I.B. Ar. Vic. &c. omnibus & singulis Ballivis, &c. sa-
 lutem. Vobis & cuilibet vestrum conjunctim & divisim
 mando, quod de bonis & catallis T.B. vos vel aliquis
 vestrum fieri fac. tam quoddam debitum triginti solidor-
 um quæ H.S. in Cur. Comit. mei recuperavit versus
 eum quam tres-decem solid. & decem denar. quæ præfat.
 H.S. in eadem Cur. adjudicat. fuer. & pro misis & custag.
 circa sectam suam in ea parte expend. Et habeatis de-
 narios apud Castrum Ebor. Cur. Comit. mei ibi tent.
 die Lunæ, &c. ad reddend. præfat. H.S. debiti & misis præd.
 unde convict. est. Et hoc, &c. Dat. sub sigillo Officii
 mei, &c.

Ebor. ff. I.B. Ar. Vic. &c. omnibus & singulis Ballivis, &c. salu-
Fieri faci- tem. Vobis & cuilibet vestrum conjunctim & divisim man-
as cont. Ex- do quod vos vel aliquis vestrum levar. de bonis & catal-
ecutor. lis quæ nuper fuer. W.W. defunct. tempore mortis suæ,
 & nunc reman. in manibus I.W. Executor. testamenti
 præfat. W.W. & non Administrand. tam debet. quadra-
 ginta

glota librarum quod T.L. in Cur.Com.mei virtute brevis de Justic. versus eum recuperavit, quam vlginti solidi qui pred. T.L. in eadem Cur. adjudicat. fuer. pro damnis & misis quæ sustinuit occasione detent. debiti. pred. si præfat. I.W. Executor. testamenti pred. W.W. tanta bona seu catalla in manibus suis habeat quæ fuer. pred. W.W. tempore mortis suæ sufficient. ad satisfaciend. debiti. & dam. *De bonis propriis.* pred. Si non habeat tanta bona seu catalla in manibus suis quæ fuer. præfat. W.W. tempore mortis suæ sufficient. ad satisfaciend. pred. T.L. de debito & damnis predictis; quod tunc vos seu aliquis vestrum levan. de bonis & catallis propriis præfat. I.W. dam. & misa pred. Ita quod habeam eandem pecuniam apud prox. Cur. Comit. mei tent. apud Castr. Ebor. &c. ad reddend. præfat. T.L. de debiti. & dam. pred. de quibus convict. est. Et hoc, &c. Dat. sub sigillo Officii mei, &c.

I.B. Ar. &c. omnibus & singulis Ballivis, &c. salutem. Ebor. ff. Vobis & cuilibet vestr. conjunctim & divisim mando quod *Fieri facias* de bonis & catallis T.O. levare fac. viginti solidi. quos S.D. *as pro misis.* in Cur. Com. mei (secund. Statut. in eo casu provis.) pro misis & damnis adjudicat. fuer. quæ ille sustinuit in defensione sua facienda in quodam placito debiti, quod pred. S.D. versus pred. T.O. nuper product. quia præfat. T.O. sectam suam non prosecut. est, sed de eo convict. ita quod habeam eandem pecuniam apud prox. Cur. Com. mei tent. apud Castr. Ebor. die Lunæ, &c. prox. ad satisfaciend. pred. S.D. de misis & damnis predictis. Et hoc, &c. Dat. sub sigillo Officii mei, &c.

I.B. Ar. &c. omnibus, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando, quod de bonis & catallis quæ nuper fuer. I.B. Arm. & nunc in manibus I.R. Gen. & A uxoris ejus Administratricis bonorum & catallorum quæ fuerunt predicti I.B. tempore mortis suæ exist. *Fieri facias post sci-re facias versus Administratorem super Verdict. prius habet. vers. in statu.* Administrand. fieri causatis, tam cert. debiti. qd. quæ I.W. recuperaverit versus predict. I.B. in curia Comit. mei, quam 33s quæ ei predict. I.W. per eandem curiam adjudicat. fuerunt pro damnis & misis quæ habuit (occasione detentionis debiti illius) virtute brevis de Justicies, ita quod habeam pecuniam predictam apud prox. meam Cur. Comit. mei tent. apud Castrum Eborum, &c. ad reddend. præfat.

Scire facias.

prefat. I.W. debet & dam. predict. de quibus predict. I.B. convict. fuit. Ideo consideratum erat in curiam meam eandem, quod predict. I.W. Executionem haberet versus predictum I.R. & A. uxorem ejus, de debito & damnis predictis, de bonis & catallis predictis, per defaultum predict. I.R. &c. Et hoc, &c. Dat. sub sigillo Officii mei, &c.

*Veditioni
exponas.*

I.B. Ar. &c. omnibus & singulis Ballivis meis, &c. salutem. Vob. & cuilibet vestrum conjunctim & divisim mando, specialiter F.P. Ballivo libertatis de S. & Depuratis suis, qui habent bona capta super Executionem ex eund. de hac Cur. quod ill. vigint. v. r. v. ces, Anglice *weather-sheep*, quarum unumquemque vos apreiar. fac. ad oct. solid. de bonis I.C. Ar. quæ ceperit, & modo in manibus vestris reman. intendit. pro defectu Emptorum, sicut vos retor. Cur. mea vend. expon. Et denar. inde qui in toto attingunt ad octo libr. habeatis ad proxim. Comit. meum apud Castr. Ebor. tent. die Lunæ xlii die Maii prox. ad reddend. W.G. qui eidem W.G. in Cur. mea adjudicat. fuer. pro damnis suis quæ habuit occasione cujusd. transgr. sibi per eund. I.C. illat. unde convict. est : Et hoc, &c. Dat. sub sigillo Officii mei xlii die Octob. An. Regni Dom. nostri Caroli Secundi Dei gratia Angliæ, Scotia, Franciæ, & Hiberniæ, Rex Fidel. defensor, &c.

Per eund. Vic.

Of a Scire facias.

IF a *Fieri facias* do not issue out within a year and a day after judgment entred, it cannot be had till there be a *Scire facias* first sued out to summon the Defendant to shew cause why Execution should not be done ; and if now he neglect to answer, or cannot be found to be summoned, then a second judgment shall be given, that Execution be done of the first Judgment.

If Judgment be given against a Testator, albeit it be within a year after Judgment had, yet there must first issue out a *Scire facias* against the Executor or Administrator (before Execution) to shew cause why it should not be had.

Or if a man recover against a Feme-sole, and she become covert, viz. take a Husband within a year and the day ;

day; then he that shall recover must have a *Scire facias* against the Husband, else he cannot charge the Husband.

Scire fac. post annum & diem.

I B. Ar. Vic. &c. salutem. Cum. W.F. nuper in Cur. com. predict. per Judic. in dictam Cur. com. pred. tent. *Ebor. ff.* apud Castr. Ebor. die Lunæ decimo die *Februarii*, an. Dom. mill. sexcentesimo quinquagesimo quarto, coram fectar. ejusdem Cur. recuperavit versus G.L. tam quoddam debitum trigent. & duor. solidor. qui idem W.F. in eadem cur. recuperavit versus eum; quam tresdec. solid. & decem denar. qui eidem W.F. in cur. pred. adjudic. fuer. pro damnis suis quæ sustinuit occasione detent. debiti illius; unde convict. est, sicut per process. inde in eadem cur. reman. manifeste liquet: executio tamen predict. judicii restat. faciend. prout per insinuationem prefat. W.F. informatus sum: Et quia volo quod ea quæ fuerunt in dicta cur. rite acta sint debit. Judic. demand. Ideo vobis mando quod per probos & legales honestos Balliv. mei Scire fac. dict. G.L. quod sit apud castr. Ebor. ad prox. com. mei ibidem tent. die Lunæ tertio die *Maii* prox. futur. ad ostend. si quid habeat dicere, vel non, quare prefat. W.F. habere non deberet levar. fac. sive execut. versus eum, secundum vim, form. & effect. ejusdem recuperat. si sibi videtur expediri. & habeatis ibi tunc nomina eor. per quos scire fac. & hoc præcept. Dat. sub sigillo Offic. mei quarto die *Apr. An. Regis Caroli Secundi Angliæ, &c. xliii.*

*Scire fac. versus Executor. super judicio
versus Testatorem.*

I B. Ar. Vic. &c. salutem. Cum. N.N. nuper in cur. com. *Ebor. (s.)* pred. tend. apud castr. Ebor. die Lunæ, &c. coram tunc Vic. dicti. com. pred. judic. ejusd. cur. recuper. versus H.N. tam quoddam deb. quadragint. librar. quam vlgint. & duos solid. & duos denar. pro damnis suis quæ sustinuit ratione detent. deb. illius, unde convictus est, sicut per process. residen. in eadem cur. liquet. Ac cum executio Judic. adhuc restat. faciend. & pred. H.N. post reddic. Judicii pred. mortuus est, prout per intimationē dicti N.N. sum

Scire facias.

sum informatus : Et quia volo quod ea quæ rite acta sunt in dictam cur. debit. execut. de mandat. vobis mando quod per probos & legales homines dict. Com. scire fac. F.N. Executrici testam. dict. H.N. quod sit prox. Com. meum tenend. pro dict. Com. apud Castr. Ebor. die Lunæ, &c. ad ostend. si quid habeat, vel sciat dicere, quare præfat. N.N. executionem suam versus eum habere non debeat de debito & damnis præd. de bonis & catallis quæ fuer. dict. H.N. tempore mortis suæ levand. & ulterius agere & recipere, &c. Dat. sub sigillo Officii mei, &c.

Scire fac. after Marriage.

Ebor. ff.

I B. Ar. Vic. &c. salutem : Cum A.B. nuper in cur. com. mei tent. apud Castr. &c. coram seſſator. ejusdem cur. recuperavit versus C.D. tam quoddam debit. quadragint. libr. quam quadragint. solidos qui eidem A.B. in eadem cur. adjudicat. fuer. promissis & custag. suis quæ habuit occasione detentionis debiti illius, unæ convict. est, sicut per process. inde in eadem cur. coram dict. seſſat. remanend. satis liquit : Executio tamen dict. Judic. restat. faciend. Et præd. A.B. post reddit. judic. præd. cepit in virum suum T.R. prout per alligat. dict. A.B. accepi. Et quia volo quod ea quæ rite acta sunt debir. execut. demand. vobis mando quod per probos & legales homines Balliv. vestri scire fac. & notum fac. eidem C.D. quod sit ad prox. com. meum tenend. apud, &c. ad ostend. si quid habeat, vel aliquid sciat pro se dicere, vel non, quare præd. T.R. Execut. judic. prædict. non habeat de debito & damnis præd. secundum vim & effect. recuperationis præd. si sibi videtur expedire. Et habeat ibi nomina eor. per quos ei scire fac. Et hoc præceptum, &c. Dat. sub sigillo Officii mei quarto die Junii, Anno Regni Dom. nostri Caroli Secundi Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis, Fidei defensor. &c. xliiii.

Venire fac. Jurator.

Ebor. ff.

I B. Ar. Vic. com. præd. Ballivo Hundred. de O. sive deputat. suo, salutem : Vobis & cuilibet vestrum mando quod Venire fac. coram legal. Seneschal. meo per me ap-punſtat. pro com. meo tenend. apud castr. Ebor. die Lunæ,

Lunæ, &c. omnes illas separales personas in pannella huic annex. mentionat. ad triand. tales separales exitus inter partes & partes quales adtunc & ibidem illis præcept. fuerint. Et hoc nullatenus omittat. sicut quilibet vestrum contrar. ad pericula vestra respond. una cum hoc præcept. Dat. sub sigillo Officii mei. &c.

Or thus.

I B. Ar. &c. Hæc sunt ad requirend. te dictum Ballivum *Ebor. ff.* quod venire fac. duodecim probos & legales homines de Balliva tua, quod sint & compareant ad prox. Com. mei tenend. apud Castr. Ebor. die Lunæ, &c. per nonam horam ante meridiem, ad triand. exit. junct. inter A.B. quer. & C.D. def. de placito debiti, (*or as the case is*) Et hoc dat. sub sigillo Offic. &c.

And if a full Jury do not appear, then as many as make default shall be amerced, and a Decem tales awarded to summon ten more, as followeth, and the same day given to the first Jury.

Decem tales.

I B. Ar. &c. Hæc sunt ad requirend. te prefat. Ballivum *Ebor. ff.* quod Venire fac. decem plures probos & legales homines Balliv. tui, quod sint ad prox. Com. meum tenend. apud Castr. Ebor. die Lunæ, &c. cum aliis, qui sibi adtunc & ibidem associantur, ad triand. quend. Exit. junct. inter A.B. Quer. & C.D. Defend. de placito debiti, &c.

And as many of these as make default shall be amerced, and then an Ocho tales shall be awarded; and if necessity require is afterwards, a Sex tales.

Subpoena, or a Warrant to summon Witnesses.

I B. Ar. Vic. Com. pred. I.B. I.G. &c. salutem: Vobis & *Ebor. ff.* quilibet vestrum mando, quod omnibus aliis pretermisissis & excusatione quacunque cessantibus vos & quilibet vestrum sitis & personalit. compareat. ad prox. Com. mei tenend. apud Castr. Ebor. die Lunæ decimo die *prox.*

E

Venire Facias.

prox. futur. ad testificand. veritatem secund. notitiam vestram in quadam actione ibidem depend. inter A.B. Quer. &c. C.D. Def. de placito debiti : Et hoc nullatenus omittat. sub forisfac. cujuslibet vestrum cent. librar. Et hoc, &c. Dat. sub sigillo Officii mei, &c.

A Liberate to deliver goods taken upon Original or mean Process.

Ebor. ff.

I B. Ar. Vic. Com. pred. omnibus & singulis Ballivis meis in & per totum Com. meum, & eorum deputat. necnon A.B. salutem : Cum. S.M. comparuit per Attorn. suum in hac Cur. ad respondend. W.N. de placito debiti : Ideo hæc sunt ad volend. & requirend. vos immediate super visum hujus, deliberare, sive deliberari faciend. S.M. duas vaccas de bonis dict. S.M. quæ vos distrinxistis & custodistis virtute Warrant. mei ab hac Cur. direct. ad sect. prefat. W.N. & hoc non omittat. sicut contrar. respond. Dat. sub sigillo Offic. mei, &c.

A Precept upon Proclamation

Ebor. ff.

I B. Ar. Vic. &c. Ballivo Hundred. de B. & deputat. suis, salutem : Virtute Proclamat. super exigi fac. mihi direct. vobis & cuilibet vestrum mando, quod vos sive aliquis vestrum duas separales Proclamat. faciat un. quar. faciend. ad general quart. Session. pacis tenend. pro le North-riding Com. Ebor. & alter. faciend. apud ostium Ecclesiæ Parochial. post Celebrat. Divin. Servic. ubi separal. person. subscript. inhabitant. quod ii & cor. quilibet corpora cor. reddant. mihi Vic. Com. predict. ubi Exigi. fac. currit. ad respondend. person. ad cujus sectam Exigi. fac. versus eos est : Et hoc non omittat. ad periculum vestrum. Dat. sub sigillo Offic. mei xxii die Aug. Anno Regis Caroli Secundi Angliæ, &c. xliii.

At the Election of the Coroner, he is to be sworn in Court by the County Clerk, for the due execution of his Office, in this manner.

You shall swear, that you well and truly shall serve our So-

Coroner's Oath.

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Sovereign Lord the King in the Office of a Coroner; and as one of his Majesties Coroners of the County of Y. and therein you shall truly and diligently do and accomplish all and every thing and things appertaining to your Office, after the best of your cunning, wit, and power, both for the profit and good of the Inhabitants within the said County, taking such Fees as you ought to take by the Laws and Statutes of this Kingdom, and not otherwise; so help you God.

The Oath of an Attorney in this Court.

Y ou shall do no falshood, nor consent to any to be done in the Court; and if you know of any to be done, you shall give knowledge thereof to the Steward, or County-Clerk, that the same may be reformed: you shall delay no man for lucre or malice: you shall encrease no Fees, but shall be content with the old Fees accustomed: you shall suffer no forreign or illegal Suits to hurt any man, nor plead or cause to be pleaded any forreign Plea, but such as shall stand with the order of the Law and your Conscience: you shall seal all such Procefs as you shall sue out of this Court with the seal thereof: you shall not procure to be sued any false Suit, nor give aid nor consent to the same. And lastly, you shall use your self in the office of an Attorney within this Court according to your learning and discretion: so help you God.

A Warrant of Attorney.

To S.D. one of the Attorneys of the County-Court for the County of Y. &c.

I A.B. do hereby desire you, and do give you full power, licence and authority, to appear for me, and for, &c. in your said Court, on Monday, &c. in an Action of Debt, for, &c. at the Suit of E.D. upon an obligation conditioned for the payment of, &c. in which said obligation I stand bound as principal: and this shall be your sufficient Warrant in that behalf. In witness, &c.

Bond for Appearance.

Bond for Appearance.

It hath been formerly used to take a Bond of the Defendant for his appearance in this Court: the form of the condition is this.

TH E condition, &c. That if the above bounden E.T. do appear at the next County-Court to be holden at the Castle of Y. on Monday the first day of *January* next, to answer H.B. in a plea of Debt, and do also stand to such Order as the Court in that behalf shall set down, and adjudge according to Law; that then this present Obligation to be void, &c.

*A Sale of the goods to the Plaintiff levied upon a
Fieri Facias, by the Sheriffs Bailiff*

NOW all men by these presents, That I G.B. of *Skip-ton in Craven*, Bailiff of the Liberty or Wapentake of *Slaincliffe* in the County of Y. by vertue of a precept of *Fieri facias* from the Sheriff to me directed, have levied of the Goods and Chattels of, &c. the sum of &c. part of a Debt due to, &c. levied by vertue of this precept to his use. In full satisfaction of which said sum of, &c. I do by vertue of the Precept or Warrant to me directed as aforesaid, assign, sell, and set over to the said, &c. all the Goods and Chattels in the apprisement here-to annexed, nominated, at the rate of, &c. *To have*, &c. the said Goods and Chattels, to Him, his Heirs, Executors, and Administrators, as his, or their own proper Goods and Chattels, as fully and absolutely as I the said G.B. might, could or ought to do by force and vertue of the said precept and apprisement, or otherwise howsoever. In Witness whereof I have hereunto set my hand and seal, the sixteenth day of *August*, in the year of our Lord, 1658.

A Deputation for a Bailiff of an Hundred

I B. Esquire, Sheriff of the County of Y. To all Christian people to whom these presents doth or may concern, greeting. Know ye, that I the said Sheriff have depured, constituted, and appointed R.D. of A. in, &c. my lawful Bailiff and Deputy within the Hundred of B. in the North-riding, In the County of Y. aforesaid, to have and execute the said Office of Bailiff within the said Hundred, or elsewhere within the said County of Y. as occasion shall require it, during my pleasure only, and no longer; and to receive and take to my use all Fees, as well for Distress, Attachment, and Perquisites of Courts, and other profits due and accustomed whatsoever to the said Bailiwick belonging, or in any wise appertaining. And whatsoever my said Bailiff shall lawfully execute and do in his said Office, I do hereby warrant, ratifie and confirm, as my own act and deed. In Witness whereof I have hereunto set the Seal of my Office the seventeenth day of August, 1658.

The Fees.

The Fees to the County-Clerk

	<i>l</i>	<i>s</i>	<i>d</i>
For every <i>Distingas</i>	00	00	08
Every special <i>Distingas</i>	00	01	08
<i>Duces tecum</i>	00	00	08
A special <i>Duces tecum</i>	00	01	08
A Writ of <i>Justicies</i>	00	02	06
The Precept upon the Writ of <i>Justicies</i>	00	02	04
A special Precept upon the Writ of <i>Justicies</i>	00	04	04
A <i>Replevin</i>	00	02	04
A special <i>Replevin</i>	00	05	04
The Bond upon the <i>Replevin</i>	00	01	00
<i>Subpoena</i> for Witnesses	00	00	08
<i>Venire facias</i>	00	02	00
<i>Habeas corpora</i>	00	02	00
<i>Fieri facias</i>	00	02	00
<i>Capias in withernam</i>	00	05	04
<i>Scire facias</i>	00	02	00

The Fees.

<i>Tolt</i>	00 01 02
Precept upon an <i>Accedas ad curiam</i>	00 02 04
<i>Superfedeas</i>	00 02 04
<i>Procedendo</i>	00 02 00
Warrant of Attorney upon every <i>Distringas</i>	00 00 02
Warrant of Attorney upon a <i>Justicies</i>	00 00 04
Entring Essoyns, for every name,	00 00 04
Entring Imparlance	00 01 00
Copyng the Declaration	00 01 00
Allowng the Answer	00 01 00
Copyng the Answer	00 01 00
Allowng the Replication	00 01 00
And for copyng the Replication, and allowng the Re-joinder, &c. and so of the rest	00 02 00
Entrng a Rule	00 00 04
Entrng a Default by <i>Nihil dicit</i>	00 00 04
Entrng a Non-suit	00 00 04
Dividing a Plaint, for every name	00 00 04
Entrng Judgment	00 02 00
Transcript upon a Plaint	00 01 08
Transcript upon a Writ of <i>Justicies</i>	00 03 04
Allowng a <i>Recordare</i>	00 04 00
Allowng a <i>Pone</i>	00 04 10
Allowng a Writ of <i>Falſe Judgment</i>	00 06 08

Fees to the Attorney.

For drawing every Declaration	00 01 00
Drawing every Answer	00 01 00
Drawing the Replication	00 01 00
Drawing Rejoinder	00 01 00
Drawing Sur-rejoinder	00 01 00
For every Court-day, wherein he proceeds in the Action, allowed as his Fee	00 02 00

Fees to the Bailiff for executing of Proceſſs.

For executing a <i>Distringas</i> of the Plaintiff	00 00 04
And of the Defendant	00 00 08
A <i>Duces tecum</i> of the Plaintiff	00 00 04
and of the Defendant	00 00 08
A <i>Justicies</i> of the Plaintiff	00 01 00
and	

and of the Defendant	00 02 00
A Replevin of the Plaintiff	00 02 00
A <i>Venire facias</i>	00 02 00
Is tryed for the <i>Habeas corpora</i>	00 02 00
A <i>Fieri facias</i>	00 02 00
A <i>Scire facias</i>	00 02 00

The Order of the Judges of Assize at York, the
24 day of July 1654. concerning *Essoins*
illegally returned into this Court.

WHereas of late Judgments have been surreptitiously obtained in this Court, by reason of *Essoins* unduly brought into the Court, by Bailiffs or their Deputies, and others, after attachment of goods for appearance; which pretended *Essoins* being afterwards disavowed by the Defendant, have occasioned sundry complaints and suits, when the Defendants goods were taken in Execution: for preventing whereof, it is ordered, upon advice and consultation had with the Judges of Assize at Y. this day, that henceforth no common *Essoin* shall be entred and allowed by the Court to save a default, unless it be Warranted in Writing, under the proper hand-writing, or under the hand, seal, or mark of the Defendant, thereby specially authorizing the party being the *Essoiner* to cast such *Essoin* for him, and in his name; for the truth of which subscription, or sealing, the same *Essoin* is to be sworn in open Court, and no *Essoin* is to be admitted or received from henceforth, being not affirmed, and sworn unto, and so entred upon the back of the Warrant of Attachment, which is to remain upon the File amongst the Rolls or proceedings of the Court.: and if any other person (not being a Bailiff) shall be the *Essoiner*, he is to bring the like Warrant from the Defendant in Writing as is aforesaid, and be sworn for the truth thereof, which is to remain in Court as aforesaid: And no Judgment shall be given where there is no other appearance but an *Essoin*; unless the *Essoin* shall appear to be Warranted as aforesaid.

Nota.

To swear to warrant Essoyns in this Court is contrary to the Statut of Marlbridge, cap. 19. which saith, De Essoynis autem provisum est, quod in Com. &c. nullus habeat necesse jurare pro Essoyno suo Warrantizand.

Of the Nature and Return of those Writs that do remove Actions of this Court into Superiour Courts.

WRits removing Suits out of this Court, may be without shewing cause in the Writ, it the remove be by the Plaintiff; but not without shewing good cause, if it be by the Defendant: as, that the Suit is for Charters of Land, or for Inheritance, or for Free-hold of Land, or any titles of Land, or Actions touching Life, or Actions to cause one to render an accompt, or trespass *vi & armis*, all which are not within the cognizance of the Court: or that he before whom the Action depends is a favourer of him that is on the other side; or that the Defendant avoweth for damage-feasant, and the Plaintiff doth justifie for common of Pasture, which is a Plea touching Free-hold, and therefore the prosecution in this Court ceaseth.

First of a Recordare facias loquelam.

*Recordare
facias lo-
quelam.*

A Recordare is a Writ issuing out of the Chancery, directed to the Sheriff, commanding him to send a plaint that is before him in his County-Court, without Writ of *Justicies*, into the Court of King-Bench, or Common-Pleas, to the end that the Cause may be there determined. And the Sheriff is hereupon to summon the other party to be in that Court (into which the Plaint is to be sent) at a day certain: and of all this he is to make a certificate under his own Seal, and the Seals of the four Suitors of the same Court.

The Return.

Virtute hujus brevis mihi direct. ad Comit. meum Ebor. tent. apud Castr. Ebor. infrascript. (tali die & anno) Recordari feci loquelam de qua Interius fit mention. quz patet in Scedul. huic brevi annexa, & illud Record. coram Justici-

Justiciar. infra script. habeo ad diem et locum infra content. sub sigillo meo, & sigill. *W.F.R.* & *E.* quatuor proborum & legalium Militum ejusdem com. ex illis qui Recordo ill. interfuerunt, & partibus infra script. eundem diem prefixi, quod tunc sint ibi in loquel. illa prout justum fuerit processur. sicut interius mihi præcipitur.
Resid. execut. hujus brevis patet in quadam Scedul. huic brevi annex.

The Scedul.

Ad Com. meum tent. apud Castr. Ebor. in com. predict. (tali die & anno) coram *I.R. M.L. I.S. & S.D.* quatuor sectator. dict. cur. inter al. continetur.

R.S. Queritur versus E.W. de placito diti (or as the Case is) *Ebor. ff. The Plea.*
I.B. Ar. Vic.

Pledg. de proseguand. *I.S. I.D.*
in cujus testimonium, &c.

Virtutue hujus brevis Recordari feci loquel. quæ est in Com. meo sine brevi Domini Regis inter *A.B. & C.D.* de averiis ipsius *A.B.* capt. et injuste dentent. ut dicitur, et Record. illud coram Justiciar. infra script. ad diem & locum infra script. habeo, sub sigillo meo & sigillis *E.B. S.D. R.B. & I.L.* quatuor legalium Militum com. mei ex illis qui Recordo ill. interfuerunt, prout patet in quadam Scedul. huic brevi annex. secundum exigen. hujus brevis. *Or thus.*

Ad Com. meum tent. (*as before.*)

Virtute hujus brevis in forma infra script. ad cur. infra script. veni, & in ill. plena cur. Recordari feci loquel. infra script. & Record. illud. prout patet in Scedul. huic brevi annex. habeo coram Justic. infra script. ad diem & locum infra content. & partibus infra script. eundem diem prefixi, quod tunc sint ibi in loquela illa prout justum fuerit processur. sicut interius mihi præcipitur.

A.B. Queritur versus C.D. de placito captionis averior. Ipsi A.B. in cujus rei testimonium E.B. S.D. I.W. & I.R. quatuor legales homines ex illis qui Record. ill. interfuerunt in plena cur. apud Castr. Ebor. in com. predict. x die Aug. anno, &c. eidem Recordo sigilla sua seperallt. apposuer. die & anno supradict. *The Schedule.*

Note,

Nota.

Note, That though the Plea be discontinued in the County, yet the Plaintiff or Defendant may remove the Plea into the Common-Pleas or Kings-Bench by a *Recordare, &c.* and it shall be good, and he shall declare upon the same. And the Court shall hold Plea upon the same plaint; for if the Plea be continued in the County, and Issue joyned upon it, yet nothing shall be removed but only the Plea, and in the Common-Pleas the Plaintiff may declare anew, *&c.*

Likewise if the *Recordare* bear date before the Plea was entered in the County, it is good enough, and the Record is well removed.

The nature of a Pone.

A *Pone* doth nothing differ from a *Recordare*, but that a *Pone* is always to remove such Suits as are before the Sheriff by Writ of *Justicies*, and not by plaint only; but the *Recordare* is to remove the Suit that is by plaint only without Writ. *F.N.B.* 70. 11.

The Return. Virtute hujus brevis mihi direct. posui coram Justiciar. *&c.* de Banco apud Westm. loquel. quæ est in Com. mei per breve Domini Regis de justic. inter *A.B.* & *C.D.* de placito debiti, ut dicitur, prout patet in quadam Scedul. huic brevi annex, *&c.*

The Scedul. Ad Com. meum tenet. apud Castr. Ebor. In Com. prædict. die Lunæ xii die Aug. anno Regis nunc *Caroli* Secundi *Anglia*, *&c.* xiiii *&c.* *A.B.* queritur versus *C.D.* de placito debiti: in cujus rei testimonium *R.L.* *S.R.* *T.O.* et *S.D.* quatuor legales homines ex ill. qui record. ill. interfuer. in plena Cur. sigill. sua separalit. apposuer. die & anno supradict, *&c.*

The Plea by Writ. *A.B.* queritur versus *C.D.* placito debiti, xx l.

Nota.

That if a Plea be removed by *Pone* at the Suit of the Defendant, or Plaintiff, and afterwards they proceed in this Court in the Plea, and give Judgment, and award Execution, *&c.* then the Defendant, or he against whom the Judgment was given, and Execution awarded, shall have an

an Attachment against the Sheriff directed to the Coroner, to answer as well the King for the contempt, as the party his damages, &c.

Of the Writ of Prohibition.

THE Writ of Prohibition is of the same nature of a *Recordare*, and a *Pone*, but not in use.

Of the Consultation, or Procedendo.

THESE two Writs are both of one nature, though the Writ of *Consultation* be *obsolete*, and the Writ of *Procedendo* stepped up into its place: it lyeth where a Cause hath been formerly removed by *Pone* or *Recordare* from this Court into the *King-Bench*, or *Common-Pleas*, and for want of sufficient cause of removal is sent back again. *Fitz. old Natura brevium* 50.

The nature of a Writ of False Judgment.

A Writ of *False Judgment* lieth where an erroneous Judgment is given in this Court. (being no Court of Record) then the party grieved by the Judgment may have this Writ, and remove all process of the Suit into the *Common-Bench*, and there it shall be examined, if it be found erroneous, the Judgment shall be reversed, and the suitors of the Court who gave the Judgment amerced.

Note, that a Writ of *False Judgment* lieth nor, but in a Court where there are suitors; for if there be no suitors there, the Record cannot be certified by them. *F.N.B.* 43.H. *Note.*

Virtute hujus brevis mihi direct. Recordari feci loquel. *The Return.*
quæ est in Com. meo, una cum process. & judic. Inter partes subscript. & eisdem partibus diem præfixi quod sint coram Justiciar. infra script, ad diem & locum infra content. prout hoc breve exigit & requirit; quæ quidem loquel. cum process. & judic. superinde patet in quadam Scedul. huic brevi annex.

Loquela

The Schedule.

Loquela per breve in Com. meo tent. apud Castr. Ebor. in Com. pred. die Lunæ xxiii die Aug. anno, &c. coram fectat. ejusdem Cur. tempore quo I.B. Ar. fuit Vic. Com. secund. consuetud. & priviledg. ejusdem Cur. a tempore cujus contrar. memoria hominum non existit usitat. & approbat. in eadem.

writ of Fugitives.

Ad hanc Cur. venit A.B. in propria persona sua & protulit hic in Cur. breve Dom. Regis nunc de Justic. quod quidem breve sequitur in hæc verba: *Carolus Secundus Dei gratia Angliæ, &c.* Vic. Ebor. salutem: A.B. questus est nobis quod C.D. super ipsum eund. A.B. apud Castr. Ebor. insu t. sec. & ipsum verberavit, vulneravit, & male tractavit, Ita quod de vita ejus desperabatur, & al. enormia ei intulit, ad grave damn. & nocument. dicti A.B. ideo tibi precipimus quod loquelam predict. audias, & postea eos juste deduci fac. pro eadem, ne amplius iude clamorem audiamus pro defect. Justitiæ. Teste meip. apud westm. x die Aug. anno Regni nostri xliii. Et inde inven. pledg. ad proseguend. loquel. predict. scil. I. Doo, & R. Roo, Et super hoc dictus A.B. in loco suo posuit S.D. Attor. suum in loquel. Pred. & per eund. Attor. suum petit process. super inde sibi fieri: Et precipitur per dict. I.B. Ar. Vic. Com. pred. omnibus & singulis Ballivis suis conjunctim & divisim, & eor. deputat. quod illis vel eor. aliquis justic. facerent eidem C.D. ita quod sit & compareat ad prox. Com. tenend. apud Castr. Ebor. die Lunæ xx die Septembris tunc prox. futur. in eodem anno, ad respondend. eidem A.B. in loquel. pred. Ad quem die ven. pred. A.B. per Attor. suum pred. & obtulit se versus dictum C.D. in loquel. pred. Et ad tunc & ibidem ven. I.P. unum Balliv. in Com. pred. I.B. Vic. dict. Com. & dict. precept. retor. direct. ut predict. servit. & execut. super eum: & idem C.D. essonlavit, quia venire non potuit usq; ad prox. Com. tenend. apud Castr. pred. Ad quam quidem prox. Cur. videlicet. die Lunæ x die Octobris tunc prox. sequend. annum supradict. ven. pred. A.B. per Attor. suum pred. & se obtulit versus prefat. C.D. in loquel. pred. & prefat. C.D. ad tunc & ibidem in propria persona sua ven. ad respondend. eidem A.B. in loquel. pred. & loco suo posuit I.R. Attor. suum versus eund. A.B. in loquel. pred. Ac per pred. Attor. suum de eadem Cur. pct. quod dictus A.B. Barta-

warrant upon the writ.

Essoin. De male vener.

narraret versus ipsum super dictam loquel. suam : & inde dictus A.B. per Attor. suum pred. narravit versus prefat. C.D. super loquel.pred.modō & forma sequend.

A.B. Virtute brevis Dom. Regis de Justic. per. S.D. At-
 tor.suum puzeritur versus C.D. de placito transgr.& insult.
 pro eo quod pred. C.D. x die *Octob.* anno, &c. apud
 Castr.&c. in & super eundem A.B. insult.& affral.sec. &
 ipsum verberavit,vulneravit & male tractavit,ita quod de
 vita ejus desperabatur, & al. enormia ei intulit, ad grave
 damnum ipsius A.B. unde idem A.B. dict. quod damnum
 habet ad valenc. xx l. & inde predict. sectam. Unde ad
 eandem Cur. super requisitionem defendentis, dies dat.
 iisdem partibus in loquel. pred. usq; ad prox. Comit. tenend.
 coram sectator. pred. die Lunæ xv die *Novemb.*
 tunc prox. sequend. salvo defendent. &c. ad quem diem
 ad Cur. pred. coram sectator. predict. tent. apud Castr.
 Ebor. pred. ven. tam predict. A.B. per Attor. suum predi-
 ctum,quam prefat. C.D. per Attor. suum predict. & ad-
 tunc & ibidem prefat. I.B. Ar. ab offic. Vic. Com. pred.
 amot. fuit, & R.L. Ar. debitor elect. & intravit in offic. Vic.
 Com. Ebor. predict. unde ad eandem Cur. super requisitio-
 nem partium,ulterior dies dat. eisdem partibus in loquela
 pred. usq; ad prox. Comit. die Lunæ xlii die *Decemb.*
 tunc prox. sequend. anno predicto tenend. coram sectato-
 ribus pred. salv. partibus, &c. ad quem diem ad eandem
 Cur. coram sectator pred. tent. apud Castr. Ebor. pred. ven.
 tam pred. A.B. per dictum Attorn. suum, quam predi-
 ctus C.D. per Attorn. suum pred. & prefat. C.D. per At-
 torn. suum pred. ven. & defend. vim & injur. quando,
 &c. & idem Attorn. dixit quod ipse non est informat. per
 magistr. suum de aliquo respons. pro eodem C.D. eidem
 A.B. in loquel. pred. dand. per quod prefat. A.B. versus
 predict. C.D. remand. inde indefens. ob quod prefat. A.B.
 recuperare debet versus predict. C.D. damna sua occasi-
 one transgr. & insult. & vulnerat. pred. sed quia Cur. pred.
 incognito existit quæ damna prefat. A.B. sustinuit rati-
 one premissor. Ideo ad prox. Comit. tent. apud Castr.
 Ebor. pred. in Com. pred. coram sectatoribus predict.
 die Lunæ x die *Januarii* tunc prox. sequend. anno pred.
 requisit. fuit per Sacram. I.W. R.S. S.G. M.L. T.P. &c.
 duodecim probor. & legalium hominum Com. pred. ex-
 istend.

Ebor. ff.
Narratio.

Emparland

Non sum in-
formatus.

Jury to en-
quire da-
mages.

Return of Writs.

issend. in Cur. & in plen. Comit. jurat. in inquirend. quæ damna prefat. A.B. sustinuit occasione transgr. & insult. & vulnerat. predict. dicunt super sacram. sua quod prefat. A.B. damna sustinuit occasione predict. transgr. & insult. & vulnerat. ad decem libr. & pro mis. & custag. per ipsum in ea parte expend. ad duas denar. Ideo considerat. est per eandem Cur. quod prefat. A.B. recuperet versus eundem C.D. damna & custag. pred. per Jurator. predict. in forma predicta assessat. ac etiam quadragint. solid. per Cur. pred. eidem A.B. ex assensu suo, pro incremento custag. sibi adjudicat. quæ dict. damna & custag. attingunt ad xii l. ii d. Et pred. C.D. in mis. &c. In cujus rei testimonium, &c.

The nature of an Accedas ad curiam.

THis Writ issues out of the Chancery, directed to the Sheriff, commanding him to go to such Court of some Lord or Franchise, as Court-Baron, or the like (being no Court of Record) where a Plaint is sued, or a false Judgment is supposed to be given in some suit which hath been in the Court; and by this the Sheriff is there to make Record of the same Suit, in the presence of the Suitors of the same Court, and four lawful men of the County; and of this he is to make a Certificate into the Court above under his Seal, and the Seals of four of the suitors of the same Court, at the day appointed by the Writ. F.N.B. 71. Plowden 74. Finch 444.

This Writ cannot be had without shewing some special cause for the removing of it: as, that a Freehold is in question there, or some Forreign Plea is pleaded not tryable in that Court, or such like. F.N.B. 70. 119.

The County-Clerk is to make a Precept upon the Writ in this manner.

*Ebor. ff.
Precept
upon an
Accedas
ad curiam.*

I.B. Ar. Vic. com. Ebor. Seneschallo & Ballivo cur. Honor. de P. salutem: Virtute brevis mihi direct. vobis mand. quod assumptis vobiscum quatuor discretis & legalibus liberis tenentibus de comitat. pred. accedatis ad cur. pred. & in plen. cur. ibidem recordari fac. loquelam quæ est in eadem eussine brevi, inter I.S. & G.M. de quadam transgr. super

super casum product. per dictum I.S. versus eundem G.M. ut prefertur : & quod Recordum illud mihi certificetis, ita quod Idem habeam coram Justic. de banco apud *Westm.* a die Sanctæ Trinitat. in quindec. dies. sub sigillis vestris, & sigillis quatuor legalium hominum ejusdem cur. ex illis qui Recordum illo interfuerunt : & quod eundem die partibus præfigitis, quod tunc sint ibi parat. in loquela pred. prout justum fuerit processur. Et habeas ibi nomina quatuor hominum pred. & hoc precept. Dat. sub sigillo offic. mei secundo die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Anglia, Scotia, Francia, & Hiberniæ Regis, Fidei Defensoris, &c. xliiii.

Per Vic.

Cur. Baron G.S. I.K. &c. tenet apud P. pro Honore de P. xlii die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Anglia, Scotia, Francia, & Hiberniæ Regis, Fidei Defensor. &c. xliiii. *The Return. Honor. de P.*

R.S. queritur versus I.N. de placito transgr. super casum ad damnum xxxs. *The Plaint.*

Virtute hujus brevis mihi direct. ad cur. pred. tent. die & anno predictis, in plen. cur. ibidem Recordari feci loquelam unde interius sit mentio; quæ loquel. patet, supra script. & illud Record. retinavi sigillat. sigillo meo; & sigillis predictor. quatuor legalium hominum, qui eadem cur. recordo illo interfuer. Et partibus infra script. die prefixi in brevi specificat. quod tunc sint parat. prout justum fuerit processur. in loquel. predict. sicut interius mihi precipitur.

W.O. Seneschal.

I.H. T.H. } Suitors.

I.G. R.H. }

Virtute hujus brevis mihi direct. in forma infra script. accessi ad cur. infra script. & in plena cur. ill. recordari feci loquel. infra script. & Record. illud (prout patet in Secd. huius brevis annex.) coram Justic. Dom. Regis habeo ab die & locum infra content. sub sigillo meo & sigillis T.R. A.B. C.D. & E.P. quatuor legalium hominum com. mei, ex illis qui Record. interfuerunt, & partibus, &c.

Record to be delivered in Court

Or

Return of Writs.

Or thus, if the Record be not returned.

Virtute hujus brevis mihi direct. & in propria persona mea assumptis mecum R.S. &c. quatuor probis & legalis Millt. com. mei, accessi ad cur. Baron G.S. I.K. &c. tent. apud P. pro Honore de P. loquelam infra scrip. Recordari ad diem & locum infra content. prout interius mihi precipitur, unde sectator. ejusdem cur. apud P. pred. in plen. cur. me infra scrip. Vic. idem breve ibidem exequi vel quoad loquel. pred. aliquo modo intermittere omnino desegaver. per quod execut istius brevis facere non possum, &c.

It is a good return for the Sheriff to say, That after the receipt of the Writ, and before the return thereof, that no Court was holden; and that also be required the Lord to hold his Court, and he would not, so as he could not execute the same.

The return of a Writ for the Election of a Coroner, after the death of another.

AD. Com. meum tent. (tali die & anno) in pleno Com. pred. virtute istius brevis de assensu ejusd. com. loco P.H. infra nominat. (qui diem clausit extremum) Elegi Coronat. viz. I.M. qui (prout moris est) Sacrament. prestitit corporale quod ipse ea faciet & conservaverit quæ ad offic. Coronat. in com. pred. spectant faciend. prout interius, &c.

The Return of the Writ of Exigent.

Virtute istius brevis mihi direct. ad com. meum Ebor. tent. apud Castr. Ebor. in com. Ebor. infra script. die Lunæ, &c. anno, &c. infra script. I.C. & ceteri defend. infra nominat. (if there be above two in the writ) primo exact. fuer. & non comparuer. ad com. meum Ebor. ibidem tent. die Lunæ, &c. anno predicto, predictis I.C. & ceter. defend. infra nominat. secundo exact. fuer. & non comparuer. ad com. meum Ebor. ibidem tent. die Lunæ, &c. anno predicto, prefat. I.C. ceter. defend. infra nominat. tertio exact

exact. fuer. & non comparuer. ad Com. meum Ebor. ibidem tent. die Lunæ, &c. anno prædicto ; præfat. I.C. & cæter. Defendent. infra nominat. quarto exact. fuer. & non comparuer. ad Com. meum Ebor. ibidem tent. die Lunæ, &c. anno prædicto, prædictus I.C. & cæter. defend. infra nominat. quinto exact. fuer. & non comparuer. Ideo prædict. I.C. & cæter. def. nd. infra nominat. p r iudicium I.W. & W.R. Gen. Coronat. dict. Dom. Regis Com. præd. secundum legem & consuetud. Regni Domini nostri Regis Angliæ, utlagat. sunt, & quilibet eor. utlagat. est.

I.B. Ar. Vic.

Virtute istius brevis mihi direct. ad com. meum tent. apud Ebor. In com. Ebor. infra script. die Lunæ, &c. anno infra script. prædictus I.B. infra nominat. primo exact. fuit & non comparuit, istud breve prout superius indorsatur mihi deliberat. fuit per I.B. Ar. nuper Vic. com. infra script. prox. predecessor. meum in ejus exitu ab officio suo : & ad com. meum (*as before*)

*Between
two Sheriffs*

Or thus.

Istud breve sic superius indorsat. una cum brevi dict. Dom. Regis de supersed. eidem annex. mihi liberat. fuit per I.B. Ar. nuper Vic. com. præd. prox. predecessor. meum, &c.

Utlary returned against a Woman.

Ideo secundum legem & consuetud. Angliæ, B.D. waiatur.

Virtute, &c. ad com. meum tent. die Lunæ, &c. eodem anno, &c. infra script. præd. I.C. quinto exact. fuit, & non comparuit, & pro defectu M.B. & R.C. Coronat. com. præd. ulterius inde prosequi non potul.

*Defect of
the Coronat.*

Virtute, &c. & ad com. meum, &c. & quod non fuer. plures comitat. in com. præd. tent. a die receptionis huius brevis præd. usque ad diem retorn. ejusdem, per quod nihil actum est ad præsens.

*Defect of
the County.*

F

Or

Or thus.

Et ideo in executione hujus brevis ulterius faciend. nihil act. est.

Superfed.

Virtute, &c. ad Com. meum predictum tent. die Lunæ, &c. anno, &c. infrascript. predictis C.D. quarto exact. fuit & comparuit, & protulit mihi breve Dom. Regis de superfed. quod huic brevi annex. ideo execut. hujus brevis ulterius facere superfedi omnino.

Or thus.

Prout in predicto brevi Domini Regis, &c. de superfed. mihi precipitur.

Or thus.

Quoad exigend. utlagat. capiend. seu aliqualliter molestand. infra nominat. I.R. virtute hujus brevis justic. &c. infrascript. ad diem & locum interius content. certifico quod virtute cujusdam alterius brevis Dom. Regis mihi direct. huic annexat. omnino superfed. prout per breve illud mihi precipitur.

where one renders himself, and the rest appear not.

Virtute, &c. ad Com. meum Ebor. ibidem tent. &c. predictus I.H. & ceter. defend. infra nominat. quinto exact. fuer. ad quem diem pred. I.H. comparuit & se reddidit prisonæ Dom. Regis, &c. de Cast. Ebor. cujus corpus coram Justic. infrascript. ad diem & locum infra content. parat. habeo, prout interius mihi præcipitur : sed ceter. defend. infra nominat. non comparuer. ideo, &c. as before.

Rendered himself.

Et præter I.S. qui se reddidit prisonæ, &c. Castri Eborum cujus quidem corpus coram Justic. infrascript. ad diem & locum infra content. parat. habeo, prout hoc breve exigit & requirit : Et præter I.C. qui mortuus est & non comparuit, ideo præjudic. &c. & pred. T.C. waviat. est in present. T.E. & F.W. Coronat. &c. Com. pred.

Ad-

Ad Com. &c. 1, 2, 3, 4. exact. fuit & comparuit & *Languid.*
reddidit se prisonæ, &c. Castr. Ebor. ubi tam languidus
est, quod propter timor. mortis ejus coram Justic.
infrascript. a diem & locum infra content. habere non
possum.

The Return of the Writ of Proclamation.

Virtute hujus brevis mihi direct. ad Com. meum Ebor.
tent. apud Castrum Eborum infrascript. die Lunæ, &c.
an. &c. infrascript. primo Proclamari feci; & ad Com.
meum Ebor. tent. apud Castr. Ebor. pred. in dicto com.
Ebor. die Lunæ, &c. anno, &c. Infrascript. secundo Pro-
clamari feci; & ad General. Session. pacis tent. apud
Skipton pro le *west-riding* ejusdem com. infrascript. die
Martis, viz. x die *Septemb.* pred. anno, &c. infrascript.
publice Proclamari feci quod I.C. & omnes al. defend. in-
fra nominat. seipsos reddunt infra nominat. Vic. *London,*
ita quod iidem Vic. corpora eor. habeant coram Justic.
infrascript. ad diem & locum infra content. prout hoc
breve exigit & requirit.

*The manner of proceeding upon the Writs of
Recordare, Pone, Writ of False Judgment, &c.
in the Common-Pleas, after the removal out of
the County-Court.*

YOU must repair to the County-Clerk, or his Deputy,
and demand a return of the Writ of *Recordare*, or
Pone.

If upon the return the Defendant appear, then must
you declare; and when your Declaration is drawn, enter
it upon a Roll in one of the *Prothonotaries* Offices, and see
that it be *docketed* together with the number of the Roll.

If the Writ be returnable in the beginning of a Term,
(especially in issuable Terms) the Defendant is to answer
the same Term, unless the Defendant hath *Emprallance* to
Plead until the following Term.

Rules to answer must be entred in the Remembrance in
the *Prothonotaries* Office, entering in the Margent, or over

Proceedings (after Removals)

the head of the Rule, that if the Defendant do not plead (within some few days) let Judgment be entred. And if no Plea be brought in within the time, then may you sign Judgment with the Prothonotary in default of answer.

Nota.

If the Defendant appear not upon the return of the Writ, then may the Plaintiff have a *Procedendo* to carry the Cause back again into the County-Court.

If the Plaintiffs Attorney declare not against the Defendant, upon his appearance, within a reasonable time of the Term; then may the Defendants Attorney enter a Rule in the Bill of Pleas against the Plaintiff to declare; and if he declare not, then may he enter a *Non prosec.* and sign it with the Prothonotary, and costs given for the unjust vexation.

If the Defendant plead *General Issue*, then must the Attorney for the Defendant set his hand to the *Doquet-book* of the Plaintiffs Attorney, who draws up the Plea, and makes a Copy of the Issue, and delivers it to the Defendants Attorney; and then they usually give notice of Tryal.

If the Defendant plead specially, he is to bring it to the Plaintiffs Attorney, under a *Serjeants* hand; and if the Plaintiff reply specially, it must likewise be under the *Serjeants* hand: the like upon a *Demurrer* to a Declaration, and *Rejoinder* in Demurrer.

Nisi prius.

If your Tryal be by *Nisi prius*, at the *Assizes* in the Country, and the Jury appear not full upon the Pannel, then may you require a *Decem tales de circumstantibus, viz.* Ten of the standers by to fill up the Jury, or more, or less, as is requisite; which *Tales* must be mentioned upon the return of the *Postea*, and the Judgment upon it in the Issue-Roll.

Having entred your Declaration, with the *Issue* joyned in the *Prothonotaries* Office, then make out a *Venire facias* upon your Issue, and get it signed with the Prothonotary, and seal it; then get it returned by the Sheriff of the County where the Action is laid, and upon the return of it, sue forth an *Habeas corpora*, and deliver the same to the Sheriff to summon the Jury, and get it returned before the *Assizes*.

In suing forth your *Nisi prius*, ingross your Record, according to the copy of the Issue made up, and the entry of it upon the Roll in the *Prothonotaries* Office, and examine

mine it ; if it be upon an Issue joyned the same Term, whose hand must be to it, then carry the same to the Clerk of the Treasury, to sign and make up the Record.

If the Issue be entred of a Term past, then must you deliver the Paper Book of the Issue to the Clerk of the Treasury, to examine the same by the Roll, and to make up the Record, which must be signed by him ; then must it be sealed with the Lord Chief Justice of the Court, and then deliver it together with the *Hab. Cor. Jur.* returned by the Sheriff to the Clerk of the Ass. for that Country where it is to be tryed, paying the Judges.

Then retain the Council, and have your Witnesses ready for the Tryal.

The tryal being had, and Verdict passing for your Client, the next Term you are to call of the Clerk of the Assize for a return of the *Postea*, and thereupon the Prothonotary will assess costs, and cause Judgment to be entred, upon which you may have Execution by *Capias ad satisfaciendum*, *Fieri facias*, or *Elegit*, &c. according as you desire, and as the nature of the Action brought doth allow or require.

Note, that a *Capias ad satisfac.* is only against the body, who must be imprisoned until satisfaction be made ; and if the Defendant cannot be found, the Plaintiff cannot have another Execution, 20 E. 2. for he may chuse at the first, whether he will have a *Capias*, or an *Elegit* ; but if he take the *Capias*, he shall not have an *Elegit* afterwards, *nec e converso*. 15 H. 7. 15.

The Writ of *Fieri Facias* is only against the Goods ; as Leases for years, or immoveable goods ; as Corn, Household-stuff, Cattle, Apparel, Money, Plate, &c. and it ought to be sued out within the year after the Judgment. Co. 3. 13. After the *Fi. fa.* a man may have an *Elegit* ; but on the contrary, after the *Elegit* he cannot have a *Fi. fa.* because the *Elegit* is of a higher nature than the *Fi. facias*.

An *Elegit* is a Writ whereby the Plaintiff is to have Execution of the half of all the Defendants Lands and Charrels, (except Oxen and Beasts of the Plough) till the debt and damages be wholly levied, and paid to him ; and during the term he is Tenant by *Elegit*. Terms of the Law.

Proceedings (after removals)

The Proceedings upon the Writ of False Judgment.

YOu must call of the County Clerk for the return of the Writ, together with the whole *Record* of all the Proceedings from the original and beginning of the Cause in the County-Court.

The Writ being returned, you must assign *Errors*, and take Copies thereof, and thereupon sue forth a *Scire facias* to the Plaintiff in the action to hear *Errors*; to which the Plaintiff may appear, and plead the common Plea, which is, That *the action nor proceedings in the County-Court are nothing erronious*. Then must the Defendant endeavour to get a *Rule*, or day given for the arguing of the same *Errors*.

But if the Defendant doth delay, and doth not call for a return of the Writ, nor proceed, then the Plaintiff may sue forth another *Scire facias* against the Defendant, to shew cause why he should not have Execution upon the Judgment had in the County-Court: and if at the return of the Second *Scire facias*, *Errors* be not assigned, then Judgment is confirmed in that Court into which the Writ is returnable.

If *Errors* be found and allowed to be sufficient and good, then is the said Judgment to be reversed and made void: But if *Errors* be not found good, then is the Judgment in the County-Court affirmed, and further costs for delay of execution allowed to the Plaintiff, who may presently sue forth Execution out of that Court into which the Writ was returned against the Defendant.

Nota.

Note, that if the Judgment be reversed and made void, yet notwithstanding it takes not away the Plaintiffs cause of Action, for he may commence a new Action against the Defendant for the same cause.

The same proceedings are upon an *Accedas ad Curiam*. See the Record upon it.

The

The manner and form of drawing up Records upon a Writ of False Judgment, and Accedas ad Curiam.

PRecept. est Vic. quod si A.B. eundem Vic. fecerit secu- *Record upon*
rum de clamore suo prosequendo tunc in plen. Com. *a writ of*
suo recordari fac. loquel. quæ fuit in dicto com. per breve *False Judg-*
Dom. Regis nunc inter W.B. & eundem A.B. de quodam *ment.*
transgr. super casum eidem A.B. per eundem W.B. com-
miss. &c. Et unde idem A.B. quæstus est quod judic.
falsum sibi fact. fuisset in eadem comitat. & quod habeat
hic ad hunc diem, scilicet, *Ostab. Pur.* sub sigillo suo, &
per quatuor legales Milit. ejusdem com. qui Recordo illi
inter. sent, & quod habeat hic Summonitor. nomina
quatuor Militum hoc breve, & al. breve.

Et nunc hic ad hunc diem ven. tam predict. A.B. per
Simon Dunn Attorn. suum quam dictus W.B. summonit.
&c. per *Philippum Prince* Attorn. suum; & Vic. scilicet,
Geo. Mur. Ar. modo retornavit quod pred. A.B. Inve-
nisset eodem Vic. pleg. de dicto brevi suo prosequend.
scilicet, *Jo. Doo*, & *Ric. Roo*, & quod ipse virtute brevis
illius sibi direct. ad com. suum tent. apud Castrum Ebo-
rum in com. pred. x die *Maii* anno Regni Domini nostri
Caroli Secundi nunc Regis *Angliæ*, &c. xiii eandem loquel.
recordari fecit, quæ fuit in dicto com. inter eadem A.B. &
W.B. & Record. ejusdem loquel. coram Justic. hic ad hunc
diem paratum habet sub sigillo suo, & sigillis H.M. & qua-
tuor legalium Militum dict. com. ex illis qui Recordo in-
terfuerunt; & quod summonivit eundem W.B. quod sit
hic ad hunc diem, auditur. Record. illud per R.S. & F.L.
prout per dictum breve sibi præceptum fuit, &c. quod
quidem Record. sequitur in hæc verba.

Carolus Secundus Dei, &c. Vic. Eborum salutem: quæ-
stus est nob. W.B. quod A.B. de C. in Com. tuo *Hasband-*
man, quamvis predictus W.B. verus & fidel. subditus no-
ster, & tanquam verus & fidel. subdit. noster tempore Nati-
vitat. suo huc usque vixerit & se gesserit, & bonorum no-
stris & famæ apud quamplurim. subdit. nostrorum not.

A Record upon a Writ of

fuit habit. & reputat. prædictus tamen A.B. præmissorum non ignarus, sed machinans & malitiose intendens, ipsum W.B. non solum de bonis, nomine, fama, & estimatione suis totaliter destruere, verum etiam eundem W.B. in perturbationem, vexationem, & infamiam apud vicinos suos & quamplurimos al. fidel. subdit. hujus Regni nostri, inducere hæc falsa, ficta & scandalosa verba de eodem W.B. apud C. in præsen. & audit. diversorum fidel. subdit. hujus Regni nostri, dixit, retulit, & alta voce propalavit in hæc Anglicana verba sequent. viz. W.B. (eund. W.B. innuend.) *hath stoln my Horse* : quorum quidem falsor. & scandalosorum verborum dictiones publicationem & propagationem præfat. W.B. non solum in bonis nomine & fama lesus, verum etiam in actionib. & negotiis cum honest. person. quibus idem W.B. emendo, vendendo & licite bargainizando antea usitat. lesus, & deterquorat. existit, ad grave damn. ipsius W.B. &c.

Ideo præcipimus tibi quod loquel. illam audias, & postea eandem deduci facias, ne amplius inde clamorem audiamus pro defectu Justit. Teste meipso, &c.

*Placita tent. apud Castr. Ebor. in Com. Ebor.
Die Lunæ 2 die Junii, anno Regis Car. Secundi, xiii.*

AD hunc Cur. W.B. queritur versus A.B. de placito transgr. super casum W.B. per P.P. Attorn. suum queritur versus A.B. de placito transgr. super casum, pro eo, videlicet, quod cum idem W.B. bonus, verus & fidelis subdit Dom. Regis nunc & al. Regn. Angl. a tempore Nativitatis hucusq; gubernavit & se gesserit, & bonorum nominis, fame, credent. & reputationis honestæ cum bonis & grandævus hominibus, tunc vicin. suis quam al. fidel. subdit. Dom. Regis nunc habit. nor. existimat. & reputat. absq; aliqua falsitate, furto, perjur. felon. fraude sive macula cujuscunque culpæ, sive criminis nocivi immaculat. & intact. p. r. torum tempus prædictum gesserit & se gubernavit; prædictus tamen A.B. præmissorum non ignarus, ex mera & nequissima malitia precogitata intendens, nomen & famam ejusdem W.B. ledere, detrahere, pejorare,

rare, obſcure & totaliter deſtruere, ac etiam in per-
turbation. vexation. & infamiam traducere & inducere
quendam falſa & ſcandalofa verba & mendacia de eodem
W.B. oſtavo die *Aprilis*, anno Regni *Caroli Secundi* nunc
Regis *Angl. xiii* apud, &c. & infra liberrat. & Jurisdiction.
hujus Cur. in preſent. & audit. quamplurimor. fidel. ſub-
dit. dict. Dom. Regis, dixit, retulit & propalavit, videlicet,
W.B. eundem W.B. innuend. *hath ſtoln my Hoſe out of my
Cloſe, which I will prove*: quorum quidem falſor. & ſcan-
daloforum verborum dictionis & propalationis prætextu
idem W.B. non ſolum in boni nomine & fama leſus eſt,
verum etiam in negotiis ſuis præficiend. cum honeſtis per-
ſon. omnibus dictis W.B. in emend. vendend. & licite bar-
ganizand. multam impedit. ac etiam quosdam al. perſon.
& ſubdit. dict. Dom. Regis nunc ea occasione ſeipſos a
conſortio ejusdem W.B. ſubrapuerunt, & conſortium cum
eo habere penitus recuſaverunt & adhuc recuſant; unde,
&c. ad damnum 39 l. & inde prædict. ſectam, &c. Et
præd. A.B. per S.D. Attorn. ſuum ven. &c. Et dict. quod
prædictus W.B. actionem ſuam prædictam verſus eum
habere non debet; quia dic. quod ipſe non eſt culpabi-
lis de diction. & propalation. verborum in narration. præ-
dict. ſuperius ſpecific. nec de aliqua parte eorum, modo &
forma prout prædict. W.B. ſuperius verſus eum quæritur:
Et hoc, &c. Ideo ſecundum conſuetud. præcept. eſt Bal-
liv. Wapentag de *Ouzt & Dar*, quod ven. fac. coram Se-
neſchall. ejusdem Cur. ad proxim. Cur. Com. mei præd.
(tali die) xii. &c. Et quod tunc habeat ibi idem præcept.
una cum panell. de nominibus Jurat. præd. eodem die:
Ad quam Cur. Com. tenr. apud Caſtr. Eborum præd. ſe-
cundum conſuetud. coram Senefchall. ibidem die Lunæ ſe-
cundo die *Apr.* ven. tam præfat. W.B. per Attorn. ſuum
præd. quam idem A.B. per Attorn. ſuum, &c. ac idem Bal-
liv. Wapentag. prædict. præcept. ſibi direct. retornavit
in omnibus execut. una cum pannella de nominibus Ju-
rator. præcept. annex. ſcilicet, in eadem pannella nominan-
tur L.M. N.R. &c. ad faciend. Jur. inter partes præd. in lo-
quela prædict. qui ad dicend. veritat. præmiſſor. elect. triat-
& Jurat. dicunt ſuper ſacrament. ſuum, quod præd. A.B. eſt
culpabilis de dictione & propalation. dictor. verborum in
narratione prædict. ſpecific. & aſſident damna dict. W.B.
occaſion. dictionis eor. idem verbor. ultra miſ. & cuſtag. per
ipſum

ipsum circa sectam suam in hac parte expens. ad 4*l.* 5*s.* & pro iisdem misis & custag. ad octo denar. Ideo conc. est per eundam cur. quod dictus W.B. recuperet versus eundem A.B. damna sua predicta per Jur. predict. in forma predicta assessa, & etiam tres solid. & octo denar. pro misis & custag. suis. quæ quidem damna in toto attingunt ad 5*l.* 17*s.* 4*d.*

In cuius rei testimonium sigill. Seneschall. Cur. pred. est apposit. Dat. apud Castr. Ebor. xii die Marcii, anno Regis Caroli Secundi Angliæ, &c. xiiii.

Errors assigned.

Et unde idem W.B. per. quod dictus A.B. ostendat cur. hic & assignet defectus ubi falsum iudicium fact. est in dicta loquela si quodvis sibi fact. fuerit : Unde prefat. A.B. dic. quod idem record. vitiosum & valde defectivum existit, scilicet; in eo quia non liquet per Record. ante quos cur. prima fuit tent. ac in hoc, quod pred. W.B. in Narratione sua quæstus est se damn. habere deterior. fuisse valenc. xl l. cum per Leges hujus Regni eadem cur. placita non potest tenere de xl s.

In hoc etiam, quod eadem cur. tent. xii Marcii coram Seneschall. tent. fuit ; cum tenuisse debuit coram sectatorib. ejusdem cur. & Vic. Com. pro tempore existen. ita quod dictum iudicium coram non iudice reddidit. fuit. Etiam in hoc, quod per idem Record. patet, quod predictus W.B. comparuit per P.P. Attorn. suum, & idem A.B. comparuit per S.D. Attorn. suum, sed in Record. nulla mentio fit ullius Warran. Attorn. pro eod. W.B. aut pro eodem A.B. in loquela predicta. Et idem A.B. dic. quod per multos varios modos in cur. Com. pred. fals. iudic. in loquel. pred. sibi fact. & unde pet. quod dictum iudicium pro dictis defectibus & al. in eod. Record. existend. tanquam fals. & erron. adhibetur, & omnino pro nihilo habeatur : Et quod idem A.B. ad pred. 5*l.* 17*s.* 4*d.* quæ dictus W.B. virtute iudicii predicti pro damnis suis occasione premissorum versus eum recuperavit, & ad omnia quæ ipse occasione ejusdem iudicii amisit, restituatur, &c.

Et idem W.B. dic. quod in recordo predicto nullus est error,

error, nec eidem A.B. in eadem Cur. Com. falsum factum est iudicium in loquela predicta. & per. quod Justic. hic procedant ad examinand. idem Record. & ad reformand. & corrigend. falsum iudicium, si quodvis falsi in eo inveniantur, probatur, vel manifestatur. Et quia Justic. hic se ipsos advisare volunt de & super premissis. antequam ulterius procedant, dies dat. est, &c. in *Octob. Pur.* ad audiend. inde quid cur. de hoc & super premissis considerabit, quia Justic. adhuc inde nondum, &c. Ad quem diem ven. hic tam prefat. A.B. quam pred. W.B. per Attorn. suos predicti. Et quia Justic. hic ulterius se ipsos advisare volunt de & super premissis. pred. priusquam iudicium inde reddant, dies ulterius dat. est, &c. *Mense Pasche*, ad audiend. inde quid cur. inde de & super premissis. pred. considerabit, quia Justic. hic inde nondum, &c.

If any errors and defects be found in the proceedings, then will the Judgment be reversed, and a writ Restitution awarded.

Precept. est Vic. si A.B. & C.D. inveniant securitatem. Vic. de clamore suo prosequend. tunc in plen. com. suo recordari faciat loquelam quæ fuit in eadem cur. sine brevi Dom. Regis inter E.F. & eundem A.B. & C.D. de averiis ejusdem E.F. capr. & injuste detent, &c. Et unde iidem A.B. & C.D. questi sunt falsum sibi factum fuisse iudicium in eadem cur. Et quod habeat hic ad hunc diem, scilicet in *Octob. Hill.* record. illud sub sigillo suo & sigill. quatuor legalium Milicum qui Recordo illi interfuerunt; & quod summonéat per bonos summonitores prefat. E.F. quod sit hic ad hunc diem, ad audiend. Record. &c.

Et modo hic ad hunc diem ven. tam predicti. A.B. & C.D. per S.D. Attorn. suum, quam predicti. E.F. per P.P. Attorn. suum; & Vic. scilicet G.M. Armig nunc reornavit, quod iidem A.B. & C.D. eidem Vic. inveniit. pledg. de prosequend. dictum breve, scilicet *Jo. Doo*, & *Ric. Roo*, & quod summonivit eundem E.F. sit hic ad hunc diem per I.R. & I.S. probos, &c.

Vic. etiam retornavit quod ipse virtute ejusdem brevis sibi

Return of Writs.

sibi direct. in pleno com. tent. apud Castr. Ebor. in Com. præd. xlii die *Apr.* ult. præterit. loquelam prædictam recordari fecit & habet Record. hic ad hunc diem sub sigillo suo & sigillis L.M. M.R. proborum & legalium Militum ejusdem com. ex illis qui Recordo illi interfuerunt, prout per breve illud ei præcept. fuit; tenor cujus Record. sequitur in hæc verba.

Ebor. ff.

Memorand. quod xlii die *Aprilis*, an. Regni Regis nunc *Caroli Secundi xliiii*, &c. coram G.M. Ar. Vic. Com. præd. apud Castr. Ebor. in Com. Ebor. ven. E.F. per P.P. Attorn. suum, & quæritur versus A.B. & C.D. de placito quare averia ejusdem E.F. ceperunt & ea injuste detinuer. contra vad. & pleg. quousq; &c. Et invenit pleg. eidem E.F. de clamore suo prosequend. ac etiam de averiis retornand. si retorn. inde per legem adjudicetur, scilicet, *Jo. Doo & Ric. Roo*, & ad tunc & ibidem per. debit. legis process. inde faciend. versus A.B. & C.D. &c. Ideo secundum consuetud. in Com. prædicto a tempore cujus contrar. memoria hominum non existit. usitat. & approbat. ex parte Dom. Regis nunc præcept. est I.S. Balliv. Wapentag. de W. & un. Minister. ejusdem Vic. com. prædict. quod ipse secundum istam consuetud. ponet. per vad. & salvos pleg. eosdem A.B. & C.D. quod sint coram me dicto Vic. ad proxim. Com. præd. videlicet, apud Castr. Eborum xlii die *Apr.* anno, &c. supradicto tunc proxim. sequend. tenend. ad respondend. eidem E.F. in placito prædicto idem dies dat. eidem E.F. tunc versus eosdem A.B. & C.D. ad prosequend. eundem placitum. Ad quem diem hic, viz. ad prox. Cur. com. mei tunc tent. apud prædict. Castr. Ebor. ven. præd. E.F. per Attorn. suum prædict. eodem xlii die *Apr.* & idem I.S. Balliv. Wapentag. præd. retornavit præceptum prædictum sibi in forma prædict. direct. in omnibus servit. & execut. scilicet, quod ipse virtute ejusdem præcept. attachiavit eosdem A.B. & C.D. per pleg. viz. *Jo. Denn & Ric. Fen*, quod hic sint ad hunc diem, scilicet eodem xlii die *Apr.* in forma prædicta, prout per idem præcept. ei præcept. fuit.

Et idem A.B. & C.D. in plen. cur. ibidem exact. non ven. sed defalt. fecer. Unde idem E.F. per Attorn. suum præd.

præd. pet. ulter. process. faciend. super dictam loquelam
versus eisdem A.B. & C.D. & habet, &c.

Ideo secundum consuetud. cur. Com. præd. præcept. est
eidem I.S. Balliv. Wapentag. de W. & un. Ministr. com.
præd. quod secundum consuetud. cur. illius, distringat.
eisdem A.B. & C.D. per omnia bona & catalla sua in Bal-
liva sua, ita quod neq; &c. quousq; &c. ita quod sint co-
ram me eodem Vic. ad prox. com. meum tenend. apud
dict. Castr. Ebor. scilicet, x die *Maii*, anno prædicto tunc
prox. sequend. ad respondend. eidem E.F. in eadem lo-
quel. idem dies dat. eidem E.F. hic, &c. Ad quem quidem
prox. Com. præd. hic, scilicet, apud dictum Castr. Ebor.
eodem x die *Maii*, anno supradicto tunc tent. ven. tam
E.F. per P.P. Attorn. suum præd. quam dict. A.B. & C.D.
per I.S. Attorn. suum; & præd. A.B. & C.D. obtulerunt
seipso versus dict. E.F. in eadem loquela: & idem
E.F. inde quæstus est, & narravit versus prædict. A.B. &
C.D. de placito quare iidem A.B. & C.D. 4 die *Marcii*, an-
no, &c. apud T. infra jurisdictionem hujus cur. in quo-
dam loco vocat' le *Hayes*, averla, viz sex Vitulis, Anglice
Calves ipsius E.F. ceperunt & eos injuste detinuer. contra
vad. & pleg, quousq; &c.

*Distress
awarded.*

Unde ipse tunc dixit quod deteriorat. exitit & damn.
habuit ad valenc. 39 s. 11 d. & inde produc. sectam, &c.

Et unde idem E.F. tunc & ibidem in loco suo posuit
eundem P.P. Attorn. suum versus eisdem A.B. & C.D. ad
lucrand. vel perdend. in eadem loquel. (*Here must like-
wise be a warrant of Attorny for the Defendant.*) Et inde
iidem A.B. & C.D. per S.D. Attorn. suum prædict. tunc in
eadem cur. pet. licentiam interloquendi hic, usq; prox.
cur. com. coram dicto Vic. viz. xv die *Maii*, anno su-
pradicto tunc prox. sequend. tenend. apud Castrum Ebo-
rum, & tunc ad respondend. &c. Et eis conceditur, &c.
Idem dies dat. eidem E.F. hic, &c. Ad quam quidem prox.
com. coram dicto Vic. com. præd. hic, scilicet, apud Castr.
Ebor. præd. xv die *Maii*, anno supradicto ven. tam dictus
E.F. quam A.B. & C.D. prædict. prædictos Attorn. suis
Et dict. est dicto Attorn. prædicti A.B. & C.D. per Cur.
hic

hic quod respondeat predictis A.B. & C.D. magr. suis eidem E.F. in loquel. predict. Et idem Attorn. pro dictis magr. suis nihil dic. in Bar (sicut in aliis) per quod dictus E.F. damna sua versus A.B. & C.D. occasione captionis & injuste detentionis averiorum suorum predictorum recuperare debet : sed quia incognit. existit Cur. hic quæ damna idem E.F. sustinuit occasione præmissor. præcept. est dicto I.S. tunc Balliv. Wapentag. de W. pred. & un. Ministr. Cur. Com. pred. quod ven. fac. coram dicto Vic. ad prox. Com. pred. scilicet, xv die *Maii*, anno supradicto apud Castr. Ebor. predict. tunc prox. sequend. tenend. duodecem probos & legales homines de Vicin. de S. per neutr. parte suspect. ad inquirend. super sacram. suum quæ damna idem E.F. sustinuit tam occasione captionis & injuste detentionis averiorum predictorum. quam pro misis & custag. per ipsum circa sectam suam in hac parte expens. idem dies dat. eidem E.F. hic, &c.

Ad quam quidem prox. Com. eodem xv die *Maii*, anno pred. coram dicto Vic. Com. predict. tent. ven. idem E.F. per Attorn. suum predictum, & eodem I.S. Balliv. Wapentag. predict. preceptum suum inde non misit ; Ideo sicut prius precept. est prefat. I.S. Balliv. &c. quod ven. fac. hic ad prox. Com. coram eodem Vic. Com. predicti, scilicet, xii die *Apr.* anno supradicto apud Castr. Ebor. pred. tenend. xii, &c. ad inquirend. &c. in forma predict. &c.

Ad quem diem, scilicet. xii die *Aprilis* predicti coram eodem Vic. Com. pred. ven. predict. E.F. per Attorn. suum predict. Et idem I.S. Balliv. &c. & un Ministr. ejusdem Cur. retornavit coram eodem Vic. dictum præcept. de ven. fac. in omnibus servit. & execut.

Et unde Jurat. inde impannellat. & exact. ven. & ad inquirend. in forma predicta jurat. & onerati dicunt super sacram. suum, quod predict. E.F. ratione captionis & injuste detentionis averiorum predictorum. damna sustinuit ultra misis & custag. per ipsam circa sectam suam in hac parte exposita, ad xxx s. & pro eisdem misis & custag. ad xii d. Ideo considerat. est per Cur. hic, quod predictus E.F. recuperet versus eisdem A.B. & C.D. damna sua pred.

pred. per Jurat. pred. in forma predict. assessat. ac etiam
xxvi s. eidem E.F. per Cur. hic pro predictis misis &
custag. ex assensu suo de Incremento adjudicar. quæ qui-
dem damna in toto attingunt ad 57 s. & iidem A.B. &
C.D. in miser. &c.

Unde præcept. fuit eidem I.S. Balliv. Wapentag. de W.
pred. quod de bonis & catallis eorum, idem A.B. & C.D.
in Balliva sua fieri fac. damna predicta, & quod denar. ha-
beat coram Vic. predict. ad proxim. Com. suum apud
Castrum Eborum tenend. scilicet, x die *Marci*, anno
predicto, ad reddend. prefat. E.F. pro damnis suis pre-
dictis : Unde idem E.F. pet. quod predict. A.B. & C.D.
assignet. & narret, Cur. quid vel in quo falsum iudicium
sibi fact. est, siquid probari vel liquet, &c.

Et super hoc iidem A.B. & C.D. dicunt, quod dict. Re-
cord. viciosum & quamplurimum defectivum existit. in
hoc, scilicet, quod per idem Record. patet quod eadem
averia capt. fuer. xv die *Januarii*, anno suprad. & quod
loquela inde levata fuit ad Com. Vic. xix die *Decembris*,
anno suprad. sic quod loquela illa levata fuit ante cap-
tionem averior. predictor. &c. Ac etiam in hoc, quod
per Record. illud patet quod Com. pred. tent. fuit coram
Vic. Com. pred. cum eadem Cur. tenuisse debet coram
Vic. & sectator. ejusdem Cur. ita quod eadem loquela le-
vata fuit coram non Iudice, & Process. inde adjudicar.
sine ullo Warrant. in Lege : Et sic iidem A.B. & C.D. di-
cunt, quod in Com. predict. fals. judic. sibi fact. fuit in
loquela predicta & petunt quod Judic. predict. pro er-
roribus illis & in aliis eodem Recordo & process. existend.
revocetur, ad nihilatur, & penitus pro nihilo habeatur ;
& quod ipsi omnibus quæ occasione iudicii predict. ami-
ser. restituuntur, &c.

*Error as-
signed.*

Præcept. fuit Vic. quod si A.B. securum fecerit Vic. A Record
pred. de clamore suo prosquend. quod tunc assumpt. se. *upon an*
cum quatuor discret. & legalibus Militibus Com. pred. in *Accedas*
propria persona sua accederet ad Cur. Honor. de P. & in ad curiam
plena Cur. ibidem recordari fac. loquel. illam quæ fuit in *upon false*
eadem Cur. Dom. Regis, inter C.D. & eundem A.B. in *judgment.*
quodam

quodam placito transgressionis super casum eidem C.D. per eundem A.B. illata ut dicitur : Unde idem A.B. quæritur falsum sibi factum fuisse judic. In eadem Cur. & quod habeat ibi Record. ad hunc diem. scilicet, *Ostob. Hill.* sub sigillo suo, & per quatuor legales homines ejusdem Com. ex illis qui Recordo illi interfuer. & quod summoneat per bonos summonitor. eundem C.D. quod hic sit ad audiend. Record. illud.

Et quod habeat tunc h'c nomina quatuor Militum, & istud breve, &c. & modo ad hunc diem hic scilicet, *Ostob. Hill.* ven. tam præfat. A.B. per S.D. Attorn. suum, quam prædict. C.D. per P.P. Attorn. suum.

Et Vic. scilicet, G.M. Ar. nunc retornavit quod idem A.B. invenit eidem Vic. plegios de clamore suo prosequendo *Jo. Doo, & Ric. Roo*; & quod præfat. C.D. sum. fuit, quod hic sit ad hunc diem per *Jo. Den, & Ric. Fen*; & quod ipse virtute ejusdem brevis sibi direct. secum assumpsit I.S. W.P. I.H. & W.W. quatuor discret. & legales Milites Com. prædict. & in propria persona sua accessit ad Cur. præd. tent. apud P. in Com. prædicto xv die *Ostobris*, anno Reg's nunc xiiii & in plen. Cur. Recordari fac. loquel. cujus in eodem brevi fit mention. quod quidem Record. hic ad hunc diem habet sub sigillo suo & sigillis quatuor legalium hominum prædictorum qui Recordo illi interfuer. prout per idem breve sibi præcept. fuit, ad respondend. C.D. in loquela prædicta; unde idem A.B. ad eandem Cur. in loco suo posuit S.D. Attorn. suum in loquel. prædicta: Et prædictus C.D. ad eandem Cur. per Attorn. suum prædictum quæstus est versus eundem A.B. pro eo, videlicet, quod cum idem C.D. ultimo die *Decembr.* anno prædicto apud W. prædict. & infra jurisdictionem Cur. prædict. possessionar. fuit de una pec. panni lani, Anglice *woollen cloth*, contin. undecem ulnas, preclii xxxiiii s. ut de bonis & catallis suis propriis.

Et sic inde possessionat. existen. idem C.D. eadem pec. panni manibus & possession. suis casualiter amisit, quæ quidem pec. panni postea, scilicet, xii die *Febr.* tunc proxim. sequend. ad manus & possession. dicti defendentis per intervention. dev. nit, prædictus tamen defendens dictam pec.

pec. panni propr. pec. panni esse querentis sciens, & ei de jure spectare & pertinere, & machinans & intendens eundem querentem de eadem pec. panni callide & subdole decipere & defraudare eandem pec. panni, licet ad hoc faciend. tertio die *Marcii*, anno supradicto, apud, &c. requisit. fuit, non deliberavit, sed eandem pec. panni postea, scilicet, xviii die *Marcii* tunc proxim. sequend. apud W. præd. infra jurisdictionem hujus Cur. prædict. ad usum suum proprium convertit & disposuit, ad damnum dict. querend. xxxix s. Et inde produc. sectam, &c. Et dictus defend. ad eandem Cur. pet. licentiam interloquend. usq; proxim. Cur. & habeat, &c. Idem dies dat. est dicto querenti tunc ibidem, &c. Ad quam proxim. Cur. tent. infra dictum Honor. de P. xxvi die *Maii* tunc prox. sequend. ven. tam dictus querens quam prædictus defendens per Attorn. suos prædictos, & idem defend. pet. ulterior. licentiam interloquend. usq; prox. Cur. infra dictum Honor. tenend. & habeat, &c. Idem dies dat. est dicto querenti tunc ibidem, &c. Ad quam quidem proxim. Cur. tent. infra Honor. prædictum xxvi die *Maii* tunc prox. sequend. ven. tam idem quer. quam idem defend. per Attorn. suos prædictos, & super hoc dictus defend. pet. ulterior. licent. interloquend. usq; proxim. Cur. Honor. prædict. tenend. & habeat, &c. Idem dies dat. est dicto querend. tunc ibidem.

Ad quam quidem Cur. tent. infra dict. Honor. die &c. tunc proxim. sequend. ven. tam dictus quer. quam prædictus defend. per Attorn. suos prædictos, & idem defend. ad tunc defend. vim & injur. quando, &c. Et dixit quod ipse in nullo fuit culpabil. de præmissis superius super ipsum imposuit. prout prædictus querens per Narration. suam prædictam versus eum questus est. Et de hoc pon. se super patriam, & prædictus quer. similiter. Unde tunc præcept. fuit Balliv. Honoris prædict. quod venire fac. ad Cur. Honor. prædict. tenend. xlii liberos & legales homines Honor. prædict. ad triand. exlt. præd. superius junctæ. Idem dies dat. est partib. prædictis tunc ibidem, &c.

Ad quam quidem proxim. Cur. tent. infra honor. præd. die, &c. tunc prox. sequend. ven. tam dictus querens quam dict. defend. per Attorn. suos præd. & præd. Ball.

retroravit pannellum cum nomin: Jur. de quibus xli ex-
act. ven. & Jurat. fuer. & dixerunt super sacram. suum
quod prædictus D.D. possessionat. fuit de dict. pec. pannis
in narratione sua prædicta superius specificat. Et quod
eadem pec. panni per invention. ven. ad manus dict. A.B.
Et quod prædictus querens eundem A.B. deliberare eidem
querent. eandem pec. panni requisivit, & quod prædictus
Def. non deliberavit eandem dicto querend.

Et ulterius, iidem Jur. dixer. quod dictus Def. in ma-
nibus suis adhuc derinet eandem p. c. panni; & si super
totam materiam in forma prædicta compert. eundem
Def. esse culpabil. de præmissis in narration. prædicta spe-
cificat. vel non Jur. prædict. omnino ignorant, & per. ad-
visamen. Cur. de præmissis, & si super totam materiam in
forma prædicta compert. videtur Cur. quod dictus defend.
culpabilis est ed præmissis in narration. prædicta specifi-
cat. tunc dicti Jur. dicunt super sacram. suum quod præd.
Def. de præmissis in narration. prædicta specificat. est cul-
pabilis. Et tunc iidem Jurat. assident damna occasione
præmissorum ultra mis. & custag. per ipsum circa sectam
suam in hac parte expens. ad vigin. solid. & pro misis &
custag. illis ad xli d. Et si super totam materiam in forma
prædicta compert. videtur Cur. hic quod dictus Def. non
est culpab. de præmissis in narration. prædicta specificat.
tunc Jurat. prædicti super sacram. suum dicunt quod dictus
Def. non est culpabilis de præmissis in narration. prædict.
specificat. Et quia eadem Cur. se advisare vult de & su-
per præmis. antequam judic. inde reddat, dies dat. est
partibus prædictis hic usq; prox. Cur. tenend. infra Honor.
prædict. ad audiend. inde judic. suum, &c. Ad quam qui-
dem Cur. tent. infra Honor. præd. die, &c. tunc prox.
sequend. ven. tam dictus quer. quam præd. def. per Attorn.
suos prædictos. Et quia Cur. de reddend. judic. inde non-
dum advisatur, dies dat. est partibus prædictis quousq;
prox. Cur. de audiend. inde judicium suum, &c. Ad quam
quidem Cur. tent. in Honor. prædicta die, &c. tunc prox.
sequend. ven. tam dictus quer. quam prædictus def.
per Attorn. suos prædict. super quo præmis. visis & per
Cur. hic plen. intellect. videtur Cur. hic quod idem def.
est culpabilis de præmissis in narration. prædicta speci-
ficat. Ideo considerat. est per eandem Cur. quod idem
querens

querens recuperet versus def. præd. dictos xxi s. per Jurat. præd. in forma prædicta assessor. ac etiam xxii s. promissis & custag. suis per Cur. hic ex assensu suo de incremento adjudicat. quæ quidem damna in toto attingunt ad 43 s. Et idem A.B. in misf. &c.

Et unde idem C.D. per. quod præfat. A.B. ostendat Cur. hic & assignet. defect. ubi fals. judic. sibi fact. est in dicta loquela in eadem Cur. siquid fact. sit. Unde idem A.B. dic. quod idem Recod. virtuosum est, & multum defectivum; & quod fals. judic. sibi fact. est in dicta loquela, in hoc quod in Recordo prædicto nulla sit. mentio cujus est Cur. Honor. de P. & in hoc, quod nulla mentio fiat quis est Dominus ejusdem. Cur. neque qui sunt sectatores ejusdem: ac etiam in hoc, quod Jurator. non inveniunt quod præd. A.B. eadem pec. panni ad usum suum propriū convertit; Et sic idem A.A. dic. quod multis modis in dicta Cur. fals. judic. sibi fact. est in loquela prædicta.

Et per. quod dict. judic. p. errorib. diversis & aliis in recordo existen. tanquā fals. & vicios. revocetur, & p. nihilo habeatur. Et quod ipse omnib. quæ occasione dicti falsi judicii amisit, restituatur: Et quod Justic. hic procedant ad examinand. præmis. Et quis Justic. hic, &c.

SOME SELECT
 PRESIDENTS
 OF
 DECLARATIONS
 AND
 PLEADINGS
 Incident and belonging to this
 COURT.

DEBT.

Narr. Executor. versus Exec. super Billam.

Ebor. ff.

EF. Executor. testamenti & ult. voluntatis I.F. defuncti. virtute brevis de Justicies Vlc. Com. præd. direct. per I.S. Attorn. suum queritur versus M.W. executor. ult. voluntat. & testamenti R.W. nuper de T. in Com. Ebor. *Husbandman* defunct. al. dict. R.W. de T. in Com. Ebor. *Husbandman*, de placito quod reddat ei 7 l. &c. quas ei injuste detinet, &c. pro eo quod cum prædictus R.W. in vita sua, videlicet xx die, &c. anno, &c. apud Castrum Ebor. in Com. Ebor. & infra jurisdictionem hujus Cur. per billam suam obligatoriam sigillo suo signat. & hlc in Cur. prolat. gerend. dat. die & anno prædicto, cognovisset

novisset se debere præfat. I.F. in vita sua Integr. & justam summam 7 l. &c. solvend. eidem I.F. hæred. execut. administr. vel assignat. suis, in vel super tertium die Maii prox. sequend. dat. ejusdem bille; & pro solutione earum idem præfat. R.W. tunc & ibidem per bill. prædictam obligasset se, Executores, Administr. & Assign. suos: prædictus tamen R.W. in vita sua, licet sepius requisit. prædictas 7 l. eidem I.F. in vita sua seu prædicto M.W. post mortem ipsius I.F. non solvit, &c. sed prædictus R.W. in vita sua easdemolvere eidem I.F. in vita sua recusavit; & prædictus M.W. similiter post mortem præd. R.W. easdem præfat. E.F. post mortem dicti I.F. solvend. recusavit, & ad hoc faciend. adhuc recusat, & easdem injuste detinet; ratione cujus prædictus E.F. dic. quod damn. habet ad valenc. x l. & inde product. sectam, &c. Et profert hic in Cur. litteras testamentar. prædictas, per quas satisliquet Cur. hic præd. E.F. fore execut. ult. volunt. & testamenti prædicti I.F. defunct. &c.

Upon a Bill to be paid at the day of Marriage and Issue upon it.

T N. & E. uxor ejus administrat. bonor. & catallor. quæ fuer. T.B. defunct. queruntur p S.D. Attorn. suum versus I.H. de C. in dicto Com. Gen. de placito quod reddat eis 5 l. quas eis injuste detinet, &c. quare cum prædictus I.H. (tali die & anno & loco) per quandam billam suam obligator. sigillo suo signat. & hic in Cur. prolat. cujus dat. est eisdem die & an. pro & in consideration. unus annuli aurei, cum quodam lapide vocat. a *Diamond* in eodem annulo impresso, quem de prædicto T.B. in vita sua recepit die confectionis ejusdē bille, cognovisset & concessisset ad & cum prædicto T.B. in vita sua, quod ipse idem I.H. exec. vel assign. sui solverent vel solvi facerent præfat. T.B. exec. vel assign. suis pro eodem annulo, tali die & tempore qual. ipse idem I.H. uxorem duceret, vel nuptus foret, vel ad ali. quod aliud temp. post desponsalia sua quandocunq; requisit. fuisset per præd. T.B. exec. vel assign. suos, sive per ipsum qui billam prædict. afferret dictam sum. 5 l. ad ejus vel eor. usum præd. tempore solvend. Et præd. T.N. & E. in facto dic. quod præd. I.H. post confection. bille illius, scilicet,

Ebor. ff.

(tali die, anno & loco) infra Ecclef. Parochial. de H. in uxorem duxit quandam I.D. p quod actio. accrevit eidem T.B. in vita sua, ac eidem E. post mortem ipsius T.B. dum sola fuit, & præd. T.N. & E. post desponsalia inter eos celebrat. ad exigend. & habend. de prædict. I.B. eisdem § l. præd. tamen I.H. licet sepius requisit. præd. § l. eidem T.B. in vita sua, vel præfat. E. dum sola fuit cum administrat. omnium bonorum & catallorum quæ fuer. præd. T.B. tempore mortis suæ (tali die, anno & loco) per talem Episc. commis. fuit, nec præd. T.N. & E. post desponsal. inter eos celebrat. non reddidit, sed illas eidem reddere contradixit; Et illa præfat. T.N. & E. reddere adhuc contradicit & injuste detinet: unde dic. quod deteriorat. sunt & damn. habent ad valenc. x l. Et inde pducunt sectam, &c. Et proferunt hic in Cur. literas administrator. &c.

Bar infra ætatem.

E T. præd. I.F. p R. B. Attorn. suum ven. & defend. vim. & injur. quando, &c. Et dic. quod prædicti T.N. & E. actionem suam præd. versus eum habere non debet, quia dic. quod ipse tempore consecutionis Bille præd. fuit infra ætatem vigint. & unius annorum, & hoc parat. est verificare: unde pet. judic. si præfat. T.N. & E. action. suam præd. versus eum habere debent, &c.

Replicat.

E T. prædicti T.M. & E. dicunt quod ipsi p aliqua pre-allegat. ab action. sua prædicta habend. præcludi non debeant, quia dicunt quod prædictus I.H. tempore consecutionis Bille prædictæ fuit plenæ ætatis vigint. & unius annorum, ac non infra ætatem, prout prædictus I.H. superius allegavit: & hoc pet. quod inquiretur p patriam, & præd. I.H. similiter; Ideo præcept. est Vic.

Debt sur retainer.

A B. per S.D. Attorn. suum queritur versus C.D. de placito, &c. pro eo quod cum prædictus C.D. (tali die & anno) apud S. &c. retinisset eundem A.B. ad imponend. super pedes equorum prædicti C.D. quadragint. novas soleas ferreas, Anglice *Horse-shoes*, & ad removend. quadragint. soleas ferreas, & ad emendand. un. par. instrumentorum ferreorum ad aratrum pertin. & ad faciend. un. focariam, anglice *a Fire-shovel*, ac ad recipiend. de prædicto C.D. pro impositione quadragint. novar. solear. ferrear. prædictar. & quadragint. remotionibus xxi s. Et sic pro alter. parcell. solvend. eidem A.B. cum inde requisit. fuisset; virtute cuius retentionis præfat. A.B. prædictas quadragint. novas soleas ferreas & quadragint. remotiones super pedes equorum ipsius C.D. imposuit, &c. p quod actio accrevit, &c. *Hill. 37. Eliz. Rot. 517.* Ebor. ff.

Debt for money borrowed.

F B. queritur versus T.A. de placito quod reddat ei xii l. &c. quas ei debet, & injuste detinet, &c. pro eo cum 3 die *Maii*, anno regni Dom. Regis nunc *Caroli Secundi*, &c. xiiii, apud, &c. præfat. E.B. & dictus T.A. in simul computassent de & pro diversis denar. suum tunc & ante tempus illud debet. & insoluit. per eundem T.A. eidem E.B. & super eundem computat. idem T.A. ad hunc & ibidem cognovit se in arrerag. esse & indebitat. eidem E.B. sum. xii l. solvend. præfat. E.B. cum idem T.A. inde requisit. fuisset: prædictus tamen, &c.

*Money lent by Joyn-partners for a certain time,
and to be paid to the Survivor.*

R K. &c. querit. versus W.A. de placito quod reddat ei xx s. quos ei debet & injuste detinet, &c. p eo cum Ebor. ff.

ult. die Febr. anno Regni Dom. Regis nunc Angl. xiiiⁱ apud Castr. &c. præfat. R.K. & quidem R.W. nunc defuncti. consortes de denar. & aliis commoditatibus existend. mutuo dederunt eidem W.A. 3 l. legalis, &c. solvend. eis vel superstit. eorum die Lunæ Paschal. tunc proxim. sequend. de quibus 3 l. præfat. W.A. præfat. R.K. & R.W. In vita sua solvit suum 40 s. & tunc ibi reman. insol. suum vigint. solidorum : postea & circa Nativitat. Christi, anno dicti Dom. Regis nunc xiiii dictus R.W. obiit, & præd. R.K. eum supervixit, per quod actio accrevit eidem R.K. soli ad habend. & exigend. de prædict. W.A. prædictos xx s. prædictus tamen W.A. licet sepius ad hoc requisit. prædictos xx s. præfat. R.K. nondum reddidit, sed ill. ei-hucusq; reddere recusavit, & adhuc recusat : unde Idem R.K. dic. quod deteriorat. est & damnum habet ad valenc. xxxix s. xi d. & inde produc. sextam, &c.

For Rent in Arrear.

Ebor. ff.

R M. per, &c. queritur versus H.D. de placito quod reddat ei xxx s. quos ei debet & Injuste detinet, &c. pro eo quod Idem R.M. x die Aprilis, &c. apud Castrum, &c. demisit, concessit, & ad firmam tradidit eidem H.D. un. cottag. five dom. mantional. un. hort. & quatuor acr. terr. arabil. prat. cum pertin. jacend. & existend. apud W. in Com. prædicto : habend. & tenend. dicta cottag five dom. mantional. hort. & terr. arabil. prat. & pastur. cum pertin. eidem H.D. & assign. suis, ab Annuntiat. beate *Marie Virgin.* vulgarit. voc. *Lady-day*, tunc ult. preterit. pro & durant. termino trium annorum extunc proxim. sequend. plenar. cōplend. finiend. & terminand. reddend. & solvend. inde annual. redd. prædictis premis. eidem R.M. pro anno primo trium annorum prædictor. redd. trium librar. in denar. numerat. & in manibus solvend. eidem R.M. & 3 l. 10 s. &c. annuatim solvend. eidem R.M. pro al. duobus annis resid. dicti termini ad festa Sancti *Mich.* Archang. & Annuntiat. beate *Marie Virgin.* per consimiles & equales portiones : Virtute cujus dimissionis, eidem H.D. in dicta cottag. five dom. mantional. & cetera premissa intravit, & fuit, & adhuc existit inde possessionat. Et quia 35 s. pro dimid.

mid. ann. finit. ad festum Sancti Mich. Archang. anno, &c. sunt in arrerag. & insol. præfat. R.M. Ideo actio accrevit eidem R.M. ad exigend. & habend. de prædicto H.D. dicto. 35 s. prædict. tamen H.D. licet sepius requisit. præd. 35 s. eidem R.M. hucusque reddere & solvere contradixit, & adhuc reddere & solvere contradicit, ad damnum ipsius R.M. 39 s. Et inde produc. sectam.

For Servants Wages.

A W. per, &c. queritur versus I.S. placito quod reddat ei 24 s. &c. quos ei debet & injuste detinet, pro eo quod cum præd. S.I. die, anno, &c. apud Castrum, &c. retinisset eundem A.W. ad deserviend. dict. I.S. in loco servientis, usq; ad festum Sancti Martini Epi. in Hyeme tunc proxim. sequend. ad agend. & exequend. legales occasiones, & mandata præfat. I.S. per tempus prædictum solvend. inde eidem A.B. 12 d. &c. quod prædictus I.S. ad tunc & ibidem solvit præfat. A.W. ac etiam 24 s. ultra, &c. pro Salar. suo durand. termino prædicto, ad dictum festum Sanct. Martin. anno, &c. prædicto. Et prædictus A.W. in facto dic. quod ipse juxta retentionem prædeserviebat dicto I.S. in loco servientis, & fecit, & peregit legalia mandat. & occasiones præfat. I.S. per tempus præd. apud, &c. Et quod 24 s. pro salar. suo pro serv. suo per tempus prædictum debet. ad festum Sancti Martin. Epi. in hyeme anno, &c. superius mentionat. adhuc est in arrerag. & insol. per prædictum I.S. eidem A.W. per quod actio accrevit eidem A.W. ad habend. & exigend. de præfat. I.S. dict. 24 s. præd. tamen I.S. licet sepius requisit. &c.

For not setting forth of Tythes.

R H. firmar. omnium & singular. decimar. feni crescend. Ebor. ff. infra Paroch. de P. in Com. Eborum, virtute brevis de

de Justic. per R.N. Attorn. suum queritur versus T.W. de placito quod reddat ei 6 l. &c. quas ei debet & injuste detinet, pro eo quod cum præfat. T.L. die anno, &c. possessor fuit & Occupator de quatuor acr. prati in Paroch. prædicta; & sic inde possessionat existent. idem T.W. ad tunc & ibidem herbam crescent. in & super prædict. quatuor acras prati defalcavit, & duo plaustra onerat. ibidem, attingent. ad valorem x s. ad tunc & ibidem cepit & asportavit, ante aliquam extra position. & separation. decimarum prædictar. sive decimæ partis ejusdem à novem inde partibus, vel composition. prædictis decimis sive decima parte inde: quod prædictus T.W. fecit contra formam Statuti anno 5 Ed. 6. in simil. casis edit. provis. Unde actio accrevit eidem R.H. ad habend. & exigend. de præfat. T.W. easdem 6 l. videlicet, pro triplici valore ejusdem feni sic asportat. prædict. tamen T.W. licet sepius requisit. &c.

Upon an Award.

*Per quod-
dam script.
factum.*

R. K. virtute, &c. per E.B. Attorn. suum queritur versus H.S. de placito quod reddat ei x l. quas ei debet & injuste detinet, &c. pro eo cum 25 die A. anno, &c. apud Castr. &c. conclus. fuit & agreeat. inter præfat. H.S. ex una parte, & præd. R.F. ex alter. parte, quod ipsi & eorum utriq; acquiescunt & astarent Ordin. arbitrium. & judicium I.D. & M.L. de omnib. & singulis sect. perturbat. litib. debet. transgression. vel quibuscunq; quæ ante hac inter eos fuer. in aliquo genere negotiar. à principio mundi ad diē dat. dicti scripti, existent. dicto 25 die A. vel aliter una altera parte eodem arbitrio non acquiesc. alteri parti forisfacere summ. x l. &c. Et pro confirmation. ejusdē cor. utriq; man. & sigill. eorum imposuer. die & anno supra script. apud Castr. præd. &c. prout per idem script. (ad ostendend. huic Cur. parat.) liquet. Et cum postea, scilicet, die, anno, &c. apud Castrū, &c. prædicti I.D. & M.L. super se assumpser. onus finissorum per ordinem eorum script. gerend. dat. eisdem die & anno ult. superius mentionat. & hic in Cur. ostensum arbitraver. ordinaver. & adjudicaer. quod præfat. R.F. tunc deliberaret eid. H.S. un. parcell. turbasis, anglice *Starch* in man. dicti R.F. & bagum qua

qua turbasis posit. est, affirmat esse bonorum dict. H.S. super visum dict. Ordinis. Et ulterius per ipsum ordinem Ordinaver. & adjudicaver. quod præd. H.S. solvat vel solvi faciet eidem R.F. super visum hujus Ordinis suum, &c. Et quod omnia illa secte debet. transgr. five lites quæcunq; a principio mundi usq; ad prædictum 25 diem, &c. desissent & terminentur, aut aliter pars eadem ordine non acquiescend. forisfacer. & sicut in dicto ordine exprimitur sum. x l. prout p. dictum arbitrium sigillat. dictis die & anno, &c. per dictos arbitraores, & hic in Cur. ad ostendend. parat. satis liquet: Et eidem R.F. in facto dict. ostend. licet ipse peregit omnia in dicto arbitrio ex parte ejus peragend. prædictus tamen H.S. non performavit aliquid in dicto arbitrio ex parte sua performand. Et idem quer. in facto dicit quod dictus H.S. non solvit præfat. R.F. super visis ordinis existend. die & anno, &c. apud Castrum, &c. suum de 50 s. &c. per quod actio accrevit eidem R.F. ad exigend. & habend. de prædicto H.S. dict. x l. prædictus tamen H.S. licet sepius ad hoc requisit. prædict. x l. eidem R.F. nondum solvit, sed easdemolvere, &c.

Pro Feodis Attorn.

R A. Gen. &c. p T.S. Attorn. suum queritur de W.P. de *Ebor. ff.* placito quod reddat ei 37 s. 2 d. quos ei debet & Injuste detinet, pro eo quod cum prædictus W.P. die, anno, &c. apud Castrum Eborum retinisset eundem R.A. essend. Attorn. ipsius W.P. in Curia Com. T.S. Vi. &c. tent. apud Castr. Ebor. in Com. Ebor. coram sectator. ejusdem Cur. ad prosequend. tanquam Attorn. ipsius W.P. pro eoq. W.P. in quadam action. in nomine ipsius W.P. versus quendam C.C. de placito debet. a dictis die & anno, &c. tamdiu ambabus partibus placeret, capiend. inde pro feod. & labore suo in ea parte sustent. quolibet die quo idem R.A. præfat. W.P. secta illa sic existit, ii s. legalis, &c. Ac ultra. feod illud rationabil. misas & expens. per eundem R.A. in & circa psecutionem actionis prædictæ solv. & deponend. virtute cujus retentionis, idem A.A. Attorn. ipsius W.P. prædict. fuit pro octo curiis Com. tunc prox. sequend. & quod deposuisset Clerico & al. Ministr. ejusdem Cur.

Cur. in & circa prosecution. ejusdem secte xx s. ii d. &c. qui quidem xx s. ii d. una cum xvi s. pro feod. suis prædictis octo Curils in toto attingunt ad 37 s. 2 d. &c. ratione cujus actio accrevit eidem R.A. ad exigend. & habend. de præfat. W.P. præd. 37 s. 2 d. præd. tamen W.P. licet sepius requisit. præd. &c. eidem R.A. non reddidit, sed illi ei hucusq; reddere omnino recusavit, & adhuc recusat, ad grave damn. ipsius R.A. unde dic. quod deteriorat. est & damn. habet ad valenc. 35 s. Et inde product. sectam, &c.

Upon a Lease for Tythes.

Ebor. ff.

W T. per B. Attorn. suum queritur de R.R. de placito quod reddat ei xx s. &c. quos ei debet & injuste detinet pro eo quod cum prædictus W.T. ii die *Novembris*, anno &c. apud, &c. tunc firmar. Rectorie de Sexistend. pro uno anno integro tunc proxim. sequend. dimississet eidem, R.R. omnes decimas granorum existend. de & super sex acras & tres Rudas terr. arabilis existend. parcell. terr. & P. in W. præd. ac parcell. dicte Rectorie, pro viginti solid. &c. solvend. eidem W.T. modo & forma sequend. viz. 12 s. super festum Sancti *Marci* Evangelistæ tunc prox. sequend. & alt. oct. solid. super festum Sancti *Martini* Epl. in Hyeme tunc proxim. sequend. prædictus tamen R.R. licet sepius ad hoc faciend. requisit. præd. 20 s. eidem W.T. nondum reddidit, sed illi ei reddere contradixit, & adhuc contradic. Unde idem W.T. dic. quod deteriorat. est & damn. habet ad valenc. 30 s. Et inde product. sectam, &c.

Upon a Bond for a surviving Obligee.

I P. virtute brevis de Justic. &c. queritur versus M.M. de *S. Yeoman*, al. dict. M.M. de *S. Yeoman*, de placito quod reddat ei 40 l. &c. quas ei debet & injuste detinet, &c. pro eo quod cum dictus M.M. die *Maii*, anno, &c. apud, &c. per quoddam scriptum suum obligator. sigillo suo signat. & hic in Cur. prolatum, cujus dat. est die & anno supra-

supradictis, concessisset se debere & firmit. obligari præfat. I.P. & E. G. nuper de Clvit. Ebor. defunct. in sum. 40 l. solvend. eidem I.P. & E.G. vel eorum alteri cum inde requisit. fuisset: qui quidem E.G. postea, & ante prosecutionem hujus secte mortuus est, & prædictus I.P. ipsum supervixit, per quod actio accrevit eidem I.P. ad habend. & exigend. de præd. M.M. prædict. 40 l. prædictus tamen M.M. licet sepius requisit. præd. 40 l. eidem E.G. non reddidit, nec præfat. I.P. post mortem ipsius E.G. non reddidit, sed ill. ei reddere, &c.

Upon the same.

IH. virtute, &c. queritur versus W.H. de L. al. dict. &c. de placito quod reddat ei 20 l. quas ei debet & injuste detinet, &c. pro eo quod cum prædict. W.H. (tali die & anno) apud, &c. per scriptum suum obligatorium cognovisset se teneri eidem I.H. & cuidam M.H. nunc defunct. quem dictus I.H. supervixit, in prædictis 20 l. solvend. præfat. I.H. & M.H. vel eorum alteri cum inde requisit. fuisset; prædictus tamen W.H. licet sepius requisit. prædictas 20 l. eidem I.H. & M.H. vel eorum alteri in vita dicti M.H. aut præfat. I.H. post mortem dicti M.H. qui, &c. non reddidit, sed ill. ei reddere contradixit & ill. præfat. I.H. adhuc reddere contradic. Unde dic. quod deteriorat. & damn. habet ad valenc. 20 l. Et inde produc. sectam, &c. Et profert hic in Cur. scriptum prædictum quod debitum prædictum in forma prædicta testatur, cuius dat. est die anno supradictis.

Upon a Bond for an Executor against Sisters as Co-heirs, one of them being married.

TP. Executor testamenti W.P. virtute brevis, &c. queritur de R.M. nuper de L. mil. & A. uxor. ejus, & L.B. nuper de L. Spinster, fille & Co hered. C.B. nuper dict. C.B. &c. de placito quod reddant ei 30 l. quas ei injuste

injuste detinet, &c. pro eo quod cum prædictus C.B. pater dictarum A. & L. cujus hered. ipse est in vita sua, x die Junii, anno, &c. apud, &c. per scriptum suum obligation. cognovisset se teneri præfat. W.P. in vita sua in prædictis 80 l. solvend. eidem W.P. cum inde requisit. fuisset. Et ad eandem solutionem bene & fidel. faciend. præd. C.B. obligasset se & hered. suos per idem scriptum: prædictus tamen C.B. in vita sua & prædictæ A. & L. filie & Cohæred. præfat. C.B. post mortem ipsius C.B. dum sole fuer. & prædict. R. & A. & L. post def. onfal. int. eosdem R. & A. celebrat. licet sepius requisit. prædictas 82 l. eidem W.P. in vita sua, vel præfat. T.P. post mortem ipsius W.P. non reddider. sed ill. eis reddere contradixer. & præd. R. A. & L. ill. eidem T.P. adhuc reddere contradicunt & inju^{re} detinent; unde dic. quod deteriorat. est & damn. habet ad valenc. x l. & inde produc. sectam, &c. Et profer. &c. tam scriptum, prædictum, &c. quam literas testamentarias, &c.

Upon a Bond against an Administrator, for an Administrator during the minority of the Executor of an Executor.

Ebor. ff.

W T. & ux. ejus Administratrix bonorum & catallorum quæ fuer. E.A. nuper de H. execut. testamenti E.A. de T. virtute brevis, &c. queritur versus M.C. &c. Administratricis bonorum & catallorum quæ fuer. R.C. qui obiit intestat. &c. nuper dict. R.C. de T. in Com. Ebor. Gen. de placito quod reddat eis 40 l. quas eis injuste detinet, &c. pro eo quod cum prædictus R.C. in vita sua quarto dje Januarii, anno, &c. apud, &c. per quoddam scriptum suum obligatorium concessisset se teneri prædicto E.A. de T. in vita sua in prædictis 40 l. solvend. eidem E.A. cum inde requisit. fuisset; prædictus tamen R.C. in vita sua, & prædict. M.C. post mortem ipsius R.C. cui administratio omnium bonorum & catallorum quæ fuer. dicti R.C. tempore mortis suæ, tali die, &c. apud Ebor. præd. post mortem dict. R.C. commissa fuit, licet sepius requisit. prædictas 40 l. præfat. E.A. de T. in vita sua, aut prædicto E.A. de H. in vita sua post mortem dict. E.A. de

de T. vel dict. E. post mortem dict. E.A. de H. dum sola fuit cui administratio omnium bonorum & catallorum quæ fuer. prædicti E.A. de H. tempore mortis suæ durans. minori ætate dict. E.A. Jun. Execut. testamenti dict. E.A. de H. qui quidem E.A. adhuc est infra ætatem, scilicet, quatuor decem annorum, & non ultra, per A. provident. divina tunc Ebor. Archlep. x die *Maii*, anno, &c. apud Ebor. post mortem dicti E.A. de H. commissa fuit, vel præd. W.T. & E. post desponsal. inter eos celebrat. non reddider. sed ill. eis reddere contradixit. Et prædicta M.C. ill. præfat. W.T. & E. adhuc reddere contradic. & injuste detinet: Unde dic. quod deteriorat. sunt & damn. habent ad valenc. xxx l. Et inde produc. sectam, &c.

Et proferunt hic in Cur. tam scriptum præd. quod debet. prædictum in forma prædicta testatur, cuius dat. prædicto xiiii die *Janur.* &c. præd. quam literas testamentar. dict. E.A. de T. per quas satis liquet Cur. hic dict. E.A. de H. Executor. fore testamenti præfat. E.A. de T. & inde habuisse Administrat. &c. Ac etiam literas testamentar. dicti E.A. de H. per quas satis liquet Cur. hic præfat. E.A. Jun. exec. fore testamenti ejusdem E.A. de H. Ac etiam literas administrator. &c. quæ commissio administrat. prædict. prædicto E. in forma prædicta testatur, &c.

*For not delivering of a Pawn upon tender of
the money borrowed.*

A S. virtute brevis, &c. queri. vers. E.P. de placito quare *Ebor. f.*
A prædictus A. primo die *Maii*, &c. apud, &c. mutuo accepit de præd. E.P. xli l. &c. & adtunc & ibidem pignora vit, & in nomine pignoris dedit & deliberavit præfat. E.P. diversa bona & catalla prædict. A.S. ad valenc. 172 l. legalis, &c. pro securitate solutionis eidem E.P. prædictar. xli l. una cum interesse pro deferend. & dando diem solutionis dictar. xli l. juxta rat. 6. l. per cent. quousq; prædict. A.S. prædictus xli l. prædict. E.P. resolver: Et præfat. E.P. adtunc & ibidem, videlicet, primo die *Maii*, anno, &c. præd. apud, &c. in consideration. præmissor. super se assumpsit, & eidem A.S. adtunc & ibidem fidelit.

delit. promissit quod ipse præfat. E. P. bona & catalla præd. sibi per præfat. A. S. antequam pignoret. & deliberat. eidem E. P. super solutionem prædictarum 12 l. una cum interesse pro prædictis 12 l. juxta rat. prædict. sibi faciend. bene & fidelit. redeliberaret & redderet : Et quamvis prædictus A. S. postea, scilicet, 16 die S. anno, &c. & sepius postea apud, &c. prædictas 12 l. una cum interesse pro eisdem 12 l. juxta rat. 6 l. per cent. per totum tempus prædict. E. P. plenar. ad solvend. satisfaciend. obrulit, prædictus tamen E. P. promissionem & assumptionem suas prædictas minime curans, sed machinans & fraudulent. intendens eundem A. S. in hac parte callide & subdole decipere & defraudare prædictas 12 l. una cum senore pro eisdem 12 l. juxta rat. prædictum de præfat. A. S. recuperare, & bona & catalla prædicta eidem A. S. deliberate omnino recusat, ad grave damnum ipsius A. S. &c.

Against a Carrier for loss of Goods delivered to him.

Ebor. ff.

G B. Ar. virtute, &c. queritur de P. M. de placito transgr. super casum, pro eo quod cum præfat. P. M. (tali die & anno) & diu antea, & semper postea, hucusq; fuit, & adhuc existit communis Gestator, Anglice a *Common Carrier*, à Civitat. Eborum in Com. ejusdem Civit. ad Vill. de S. In dicto Com. & a prædicta Vill. de S. ad eandem Civitat. Eborum. Et idem P. M. eodem die & anno, & diu antea, & continuo postea hucusq; usitat. & assuet. fuit per se & servientes suos super equos ipsius P. M. bona & catalla pro rationabili & legal. stipend. & salar. aliquibus personis in ea parte inde solvend. carriare ultrocitroq; inter prædict. Vill. de S. & Civitat. Eborum juxta usual. agreement. & solution. in ea parte faciend. & habend. Et cum etiam secundum leges & consuetud. hujus regni *Anglie*, omnes consimiles Gestatores qui bona & catalla de aliquibus person. recipiunt sic gestitand. pro rationabil. & legal. stipend. sive salar. inde dand. & solvend. obligat. sunt ad conservand. & gestitand. eadem bona & catalla consimilium personarum sic recept. sine eorum spoliatione, detentione, vel perditione ; ita quod pro vel per defect. consimilis commun.

commun' Gestatoris nullum damm. ullo modo contingant talibus personis gestationem Carriaglor. eorum. Et cum præd. P.M. prædict. (tali die & anno) apud S. prædictam in Com. prædicto super se suscepisset cariat un. Riscum, anglice a *Trunk*, firmat. serat. cum diversis denarior. sum. de bonis & catallis prædicti G.B. ad valenc. x l. in eodem Risco tunc existend. tunc & sedulo à prædict. Civit. Ebor. ad dictam Vill. de S. & pro cert. & usuali. stipend. salar. & rat. pro gestatione ejusdem Risci denar. bonorum & catallorum prædictor. per præfat. G. præfat. P.M. postea solvend. Et cum præd. P.M. postea, scilicet, (tali die & anno prædict.) apud Civit. Ebor. præd. de ipso præfat. G.B. Riscum prædict. recepit, cum denar. bonis & catallis prædict. in eodem Risco ut prædict. est serat. in forma prædicta gestitand. prædict. P.W. Riscum prædict. cum denar. bonis & catall. prædictis de præfat. G.B. postea, scilicet, tali die & anno, tam negligenter & improvide conservabat & cariat, quod diversa denar. sum. bona & catall. ipsius G.B. in eodem Risco ut prædictur serat. scilicet, s l. in denar. numerat. un. par. &c. ad valenc. &c. per remissam custodiam ipsius P.M. ad tunc & ibidem amissa fuer. Et quod ipse præfat. G.B. eodem denar. bona & catall. ult. mentionat. à tempore illo usq; diem, &c. scilicet, tali die & anno, non recepit nec habuit, licet prædictus P.M. per eundem G.B. postea, scilicet, tali die & anno, sepius requisit. fuisset denar. bona & catalla prædicta eidem G.B. deliberare. Unde idem G.B. dic. quod damnum habet, &c.

*For Coales, promising to pay so much as they
should reasonably be worth.*

I L. &c. queritur de R.R. de placito transgr. super Casum &c. pro eo cum dictus R.R. die, anno, &c. apud Castrum, &c. in consideratione quod prædictus I.I. ad requisition. dict. R.R. bargainizasset & vendidisset eidem R.R. undecim carastatas carbonum, super se assumptis, & præfat. I.I. ad tunc & ibidem fidelit. promissit quod ipse idem R.R. tantas denariorum summas quas prædicta undec. carastatas carbon. rationab. valent. eidem I.I. cum

inde requisit. fuisset bene & fidelit. solvere & contentare velle. Et præfat. I.I. in facto die quod prædictæ undecim carectaræ carbonum rationabil. valebant trigint. & tres solid. &c. prædictus tamen R.R. promissionem & assumptionem suas prædictas minime curans, sed subdole & calide intendens eundem I.I. in præmiss. defraudare & decipere, licet sæpius requisit. prædict. trigint. & tres solidos eidem I.I. non solvit, sed ill. ei hucusq; solvere omnino recusavit, & adhuc recusat, contra promission. & assumption. suarum prædictarum, ad grave damnum ipsius, I.I. Unde dic. quod deteriorat. est & damn. habet ad valenc. 39 s. & inde produc. sectam, &c.

For a Horse sold, and warranted to be sound.

Ebor. ff.

WM. per R.B. Attorn. suum queritur de R.K. de placito transgr. super casum eo quod cum prædictus W.M. die & anno, &c. apud Castrum Eborum, &c. Emisset de prædicto R.K. unus atrum Spadonem, Anglice *one black Gilding*, pro s. l. legalis, &c. ipse idem R.K. ad tunc & ibidem warrantizavit eundem Spadonem esse incolumem & sanum, ac nullo morbo vel infirmitate teneri : & prædictus W.M. in facto die. quod prædictus Spado tunc adeo infect. fuit cum quodam morbo pestifero, Anglice *The Glaundis*, & diversis aliis morbis & infirmitatibus, quodque prædictus Spado parvum valebar, ad damnum ipsius W.M. 39 s. Et inde produc. sectam, &c.

For a Horse lent, promising to deliver him.

Ebor. ff.

IR. queritur de I.A. de placito transgr. super casum, &c. quare cum dictus I.A. die & anno, &c. apud Castr. &c. In considerationem quod prædictus I.R. ad tunc & ibidem ad instantiam & requisition. ejusdem I.A. mutuo dedisset & deliberasset eidem I.A. unum badum Equulum, anglice *one Bay-Nag*, prec. s. l. redeliberand. eidem I.R. cum inde postea requisit. fuisset præfat. I.A. super se assumpsit, & eidem I.R. ad tunc & ibid. fidelit. promisit quod ipse idem I.A.

I.A. eundem Equulum eidem I.R. cum inde postea requisit. fuisset fidelit. redderet & deliberaret, ac etiam 12 d. pro quolibet die quo præfat. I.A. laboret vel equiter eundem Equulum eidem I.R. cum inde postea requisit. fuisset bene & fidelit. solvere & contentare vellet. Et præfat. I.R. in facto dic. quod idem I.A. quadragint. diebus eundem Equulum laboravit & equitavit, videlicet, apud, &c. prædictus tamen I.A. promissionem & assumptionem suas prædictas minime curans, sed callide & subdole intendens eundem I.R. in præmissis decipere & defraudare, licet die, anno, &c. prædict. ac etiam diversis diebus & temporibus postea, & ante inceptionem hujus secte, apud Castr. &c. ad deliberand. eundem Equulum eidem I.R. sepius requisit. fuit, sed prædictum Equulum reddere si ve deliberare omnino recusavit, & adhuc recusat, necnon 40 s. pro labore & mercede ejusdem Equuli pro 40 diebus prædictis eidem I.R. non solvit, sed ill. ei solvere similiter recusavit, & adhuc recusat in contrarium promission. & assumption. suarum prædictarum, ad grave damnum ipsius I.R. &c.

For agisting of Beasts.

T B. queritur de I. S. Executor. testamenti I.P. de placito transgr. super casum, quod cum die, anno, &c. apud Castr. &c. in considerationem quod prædictus T.B. de special. instanc. & requisition. I.D. in vita sua depasceret duos boves ejusdem I.D. in terr. dicti T.D. in A. in Com. prædicto, à die, anno, &c. ad finem unius mensis prox. sequend. ipse idem I.D. in vita sua super se assumpsit, & eidem T.B. ad tunc & ibidem fidelit. promisit quod ipse præfat. I.D. tantum quant. dictus depast. pro averlis prædictis rationabiliter valeret eidem T.B. cum idem I.D. inde requisit. fuisset, bene & fidelit. solvere & contentare vellet. Et præfat. T.B. in facto dic. quod ipse à prædicto die, &c. ad finem unius mensis tunc prox. sequend. depavit dictos duos boves ipsius I.D. in terr. ejusdem T.B. in A. præd. Et quod iidem depast. rationabiliter valebat 12 s. &c. prædictus tamen I.D. in vita sua, & prædict. I.S. post mortem ipsius I.D. promission. & assumption. ejusdem I.D. minime curans, sed machinans & fraudulent. inten-

Case.

dens eund. T.B. in hac parte callide & subdole decipere, & defraudare, prædictos xii s. vel aliquem inde denar. eidem T.B. nondum solvit, nec pro eisdem aliquali. contentavit, sed ill. solvere prædictis I.D. in vita sua & præfat. I.S. post mortem ipsius I.D. recusavit, & adhuc recusat, quamvis prædictus I.D. in vita sua postea, scilicet, die, anno, &c. apud Castrum, &c. inde requisit. fuit : Unde idem T.B. dic. quod deteriorat. est & damn. habet ad valenc. 30 s. Et inde produc. sectam, &c.

For curing a Wound.

Ebor. ff.

A S. queritur de W.H. &c. quod cum dictus W.H. die, anno, &c. apud Castrum, &c. adtunc & ibidem gravit. vulnerat. in Guttore & in tergo suis cum confossione cultelli, ipse idem W.H. in consideratione quod præfat. A.S. ad specialem instanc. & requisition. ipsius W. H. secundum optimam artem & peritiam sua Chirurgi operam daret vulnera prædicta ejusdem W.H. sanare, ac studium & laborem inde impenderet, super se assumpsit, & eidem A.S. adtunc & ibidem fidelit. promisit, quod ipse idem W.H. tantas denar. summas quantas prædict. A pro opere & labore suis & pro medicamentis ad sanand. vulnera prædicta ejusdem W.H. impensa rationabiliter habere mereretur, eidem A.S. cum inde requisit. fulset, bene & fidelit. solvere & contentare vellet. Et prædictus A.S. in facto dic. quod studium, labor & opera ad sanand. vulnera ipsius W.H. & expensi sui inde rationabiliter valebant 30 s. &c. prædictus tamen W.H. promissionem & assumptionem suas prædictas minime curans, sed machinans & fraudulent. intendens eundem A.S. in hac parte callide & subdole decipere & defraudare, &c.

For a Labourers Hire.

Ebor. ff.

M K. queritur de G.N. &c. quod cum prædictus G.N. die, anno, &c. in consideratione quod prædictus M.R. adtunc

ad tunc & ibidem ad requisitionem ejusdem G.N. defalcaret quedam jampna vocat. *whins* ejusdem G.M. tunc crescend. & existend. in quodam Clausis voc. le O. jacend. infra præcinct. ville de H. in Com. prædicto, & faciat eadem jampna in fasces jampnos. anglice *whinkins*, sive fasciculos, super se assumpsit, ac eidem M.R. ad tunc & ibidem fidelit. promisit, quod ipse idem G.N. quant. placeret sive contentaret eidem M.R. pro opere & labore suis in defalcand. & faciend. dicta jampna in fasciculos in Clauso prædicto tamdiu præfat. M.R. adeo operaret & laboraret pro prædicto G.N. cum inde postea requisit. fuisset, bene & fidelit. solvere & contentare vellet. Et prædictus M.R. in facto dicit, quod ipse congruenter defalcavit jampna prædicta, & illa fecit in fasciculos pro prædicto G.N. in Clauso prædicto per spatium unius diei integri tunc prox. sequend. & quod optime meruit 12 d. pro stipendio pro opere & labore suis illius diei, & quod 11 d. est rationabilis sum. ei placere & contentare pro dict. opere & labore diei istius in defalcand. & faciend. jampna prædicta in fasciculos, ut præfertur: prædictus tamen G.N. promissionem & assumptionem suas prædictas minime curans, sed callide & subdole intendens eundem M.R. in præmissis decipere & defraudare, licet, &c.

In consideration that the Plaintiff would deliver unto one E.L. certain Mercery-Wares, if he did not pay for them, the Defendant would.

P.B. Ar. virtute brevis, &c. queritur de H.S. de placito Ebor. ff. &c. quod cum die, ann. &c. apud Castrum, &c. In consideratione quod prædictus P.B. (tunc & adhuc existend. Metaxar. Anglice a Mercer de Civitat. Ebor.) deliberaret E.L. prout ejusdem E.L. tales parellas Mercimoniorum, anglice *Mercery-Wares*, quales ipse idem E.L. accipiat & recipiat de prædicto P.B. ipse idem H.S. super se assumpsit, & eidem P.B. ad tunc & ibidem fidelit. promisit, quod si prædictus E.L. non solveret & satisfaceret dicto P.B. prædictis Mercimoniis ad talla raras & precia qualla

qualia iidem E.L. & præfat. P.B. consentiant quod ipse idem H.S. bene & fidelit. solvere & satisfacere vellet eidem P.B. omnes tales denar. summas quales iidem E.L. & P.B. consentiant pro ratis & precijs dictorum mercimoniorum infra dict. diem, annum, &c. & primum diem *Maii*, tunc prox. sequend. Et prædictus P.B. in factō die. quod postea, scilicet, die, anno, &c. apud Castrum, &c. prædict. præfat. E.L. acceperit & receperit de prædicta P.B. mercimonia inferius mentionata, videlicet, septem virgat. atri panni lanci vocat. *Flanders Serge* pro 38 s. & quinq; virgat. eujusdam panni lanci vocat. *Italeano* pro 26 s. legales, &c. quæ quidem rate & precia ad tunc & ibidem concordata fuer. inter dict. E.L. & præfat. P.B. & attingebant in toto ad sum. 3 l. 4 s. &c. quam quidem sum. &c. vel aliquod inde denar. præfat. E.L. nondum solvit vel satisfecit eidem P.B. prædictus tamen H.S. promissionem & assumptionem suas prædictas minime curans, sed machinans, &c.

Slender for calling the Plaintiff Thief, &c.

Ebor. ff.

E F. queritur de G.S. de placito, &c. eo quod cum prædictus E.R. bonus, verus, fidelis & honest. subdit. & ligeus Dom. Regis nunc sit, & tanquam bonus servus & fidelis ligeus dict. Dom. Regis, & progenitorum suorum nuper Regum & Reginarum *Anglie*, à tempore Nativitatis sue hucusq; se gesserit, habuerit & gubernavi, bonorum nominis, famæ, conditionis, conservationis & reputationis, tam apud venerabiles personas, quam alios fideles subdit. dict. Dom. Regis progenitorum suorum, quibus idem E.R. not. fuerat. ac cum quibus idem E.R. quoquomodo consortium habuerat p. totum tempus præd. habit. not. dictus & reputat. fuerat. absq; aliqua macula, furti, felonie, latrocinii, aut alicujus alius falsitatis, seu criminis nocivi, sine suspitione inde hucusq; ileesus & intract. semper vixit & remansit prædictus tamen G.S. præmissorum non ignarus, sed machinans & malevole intendens eundem E.R. non solum in bonis nomine, famæ, opinione, credentia, estimatione & reputatione suis, sed ere derrahere, p. jorare, & penitus destruere, verum etiam eundem E.R. in perturbationem, vexationem, & infamiam, bonorum & catallorum suorum

fo-

forisfactur. inducere die, anno, loco, &c. in Com. prædicto, hæc falsa, malitiosa, & scandalosa verba eidem E.R. & de eodem E.R. in præsent. & audit. quamplurimorum fidelium subditor. dict. Dom. Regis tunc, palam & publice, falso & malitiose dixit, retulit, propalavit & publicavit in his verbis sequent. *Thou (prædict. E.R. innuend.) art a Thief, and I (prædict. G.S. innuend.) will prove thee (eundem E.R. innuend.) a Thief, and a Horse stealing Thief from thy Cradle.* Quorum quidem falforum & scandalosorum Anglicanorum verborum, dictionis & propalationis prætextu idem E.R. non solum in bonis nomine, fama credent. estimatione & reputatione suis prædictis multipliciter lesus, & deteriorat. existit, verum etiam in magnam infamiam & publicum opprobrium illapsus est, ita quod diversis person. honest. & fidel. subdit. dict. Dom. Regis nunc, qui ante illud tempus consortium habere cum eod. E.R. usitat. fuer. & ipsum multo prece estimarunt, seipsos à consortio & societate ejusdem E.R. retrahunt, & intromittere commercium sive rem habere cum eodem E.R. penitus recusant, ad grave damnum ipsius E.R. 39s. Et inde produc. sectam, &c.

For slanderously calling the Plaintiff Bankrupt.

E. queritur de E.M. de placito transg. super Casum, quod cum prædict. E.B. bonus, verus, fidelis & honest. subdit. & ligeus Dom. Regis. nunc & al. Reg. Angl. & tanquam bonus, honest. & fidel. subdit. dict. Dom. Regis nunc & à tempore Nativitat. sue hucusq; fuit & adhuc existit, sine ulla macula sive suspitione doli, corruptioni, deceptorum agendi, sive fraudis, vel eorum aliquorum gessit, vixit, & gubernavit. & bonorum nominis, fame, credent. & estimationis fiducie, & conservationis mangnarumq; copiarum semper adhuc reputat. fuit, & habet. & honeste, juste & fideliter omnibus intromissionibus & negotiis cum quibuscunq; habet & facit. per totum tempus prædictum vixit, & se gessit. Et cum prædictus E.B. die, anno, &c. & per spetium decem annorum ult. præterit. & continuo postea hucusq; artem, mysterium sive facultat. Pharmacopole, anglice *an Apothecary*, ejusdem Civit. Eborum exercuit.

Ebor. ff.

& usitat. victum suum & sustentia. ipsius & familie sue exercendo & tractando artem mysterium sive facultatem prædicta per totum tempus prædictum, bene, copiose & sufficienter acquisivit & lucratur. fuit, ac etiam diversis ingent. denar. sum. licite emend. & vendend. Mercaturam faciend. & barganzand. super credentiam suam diversor. Mercimoniis & aliorum rerum arti, mysterio sive facultati ipsius E.B. perducend. ad mellior. sustentation. ipsius & familie sue, & ad magn. incrementum divitiarum suarum, iuste & honeste, per totum tempus prædict. impetravit, ac omnes & singul. denar. summas p. rebus vel mercimoniis quibuscunq; per ipsum de aliquibus personis per totum tempus prædict. super credentiam empt. vel recept. vel ullo modo debuit. ipse idem E.B. alicui persone eidem E.B. sic fidem adhibend. juxta stipulationem & agreement. inter eos concordat. & fact. absq; fraude vel dilatione persolvisset; quibus præmissis, ac etiam ratione honest. conversationis erga omnes person. ipse idem E.B. suum credent. & bonam opinionem inter omnes vicinos suos ac al. honorabiles person. hujus Regni Angli. quibus not. fuit merito habuit, & sibi lucratur. fuit: præd. tamen E.M. præmissor. non ignarus, sed sortem & conditionem prædict. Ipsius E.M. maliciose invidens, & machinans, malignas & fraudulent. intendens dict. stat. domes, famam credentiam, fiduciam, & estimation. ejusdem E.B. ledere & deprivare, & ad faciend. eundem E.B. in penur. infamiam & indigentiam incidere, & pro vito præve conversationis estimari, ac etiam pro decoctore & viri nullius fidei inter omnes fidel. subdit. dict. Dom. Regis, ita quod illi omnes à consortio ipsius E.B. tanquam decoctoris vel viri nulla credent. digni se ipsos omnino subtraherent. Et quod omnino cessarent & abstinerent cum eodem E.B. barganzare, emere vel intermittere, postea, scilicet, die, anno, &c. præd. apud. Cast. Ebor. præd. hæc falsa, scandalosa & opprobriosa Anglica verba sequent. de eod. E.B. in præsentia & audit. diversorum dict. Dom. Regis nunc fidel. subdit. & credent. dignorum, falso, maliciose & scandalose dixit, retulit, & alta voce propulavit, videlicet, E.B. dictum (E.B. quer. inuend.) is a Rogue, and a swindler, and I (seipsum E.N. modo defend.) will prove him one: quorum quidem falsorum, scandalosorum, & opprobriosorum verborum, dictionis, propala-

tionis

honoris & publicationis pretextu idem E.B. non solum in bonis, nomine, fama, credent. fiduc. & estimatione suis prædictis multipliciter lesus & scandalizat. existit, verum etiam de maxima parte proficuoꝝ. artis suæ prædictæ deprivat. existit, & penitus spoliatur. eo quod dicti vicini sui & al. fidel. subdit. dict. Dom. Regis de præfat. E.B. ad citare, mercaturum agere, barganizare, vel aliqualliter tractare vel intromittere, omnino diffidunt & recusant, & eundem E.B. pro consumptore, profligatore & detentatore aliar. rerum & denar. reputant, & ipsum talem esse censent, per quod præd. E.B. non solum in exercitio & manutentione artis, mysterij, vel facultatis suorum graviter impedit. & status & copia sui magnopere enervit & consumpt. sed etiam diversis ingent. denar. sum in & circa defensionem ipsius de præmissis præd. super ipsum import. pro recuperatione bonorum nominis, fame, credent. fiduc. & estimationis suorum prædictorum: disponere & erogare, coactus & compulsus fuit. Unde præfat. E.B. dic. quod deteriorat. est, & damnum habuit ad valenc. 200 l. Et inde produc. sectam, &c.

*In consideration that the Plaintiff would marry
E.R. the Defendant promised to make
him worth 200 l,*

WRi &c. queritur de P.W. de placito, &c. eo quod cum die, anno, &c. apud Castrum, &c. quoddam Colloquium habitum & mor. fuit int. prædictum W.P. & eundem P.W. de & concernend. Maritag. inter præfat. W.P. & quendam E.R. fil. cuiusdam S.R. de &c. Com. &c. dictusq. P.W. in consideratione quod præfat. W.P. ad specialem instanc. & requisitionem ipsius W.P. juxta leges & ritus Ecclesiasticos. hujus Regni Angl. ex assensu dict. S.R. in uxorem duceret prædictam E.R. super se assumpsit, & eidem W.P. ut tunc & ibidem fidelit. promissit quod ipse idem P.W. feceret eundem W.P. valere 200 l. &c. amplius, immediate post maritag. inter prædictum W.P. & eandem E.R. habitum & solemnizatur. Et prædictus W.P. in facto dic. quod ipse sub spe fidel.

Ebor. ff.

14 E.4.f.6.

15 E.4.f.32

17 E.5.f.5.

fidel. performationis & assumptionis prædictorum ejusdem P.W. & al. special. instanc. & requisition. dict. W.P. postea, scilicet, die, anno, &c. apud, &c. præd. præfat. W.P. juxta leges & ritus Ecclesiasticos hujus Regni Angli. ex assensu dicti S.R. in uxorem duxit prædictam E.R. præd. tamen P.W. promission. & assumption. suas prædict. minime curans, sed machinans & fraudulent. intendens eund. W.P. in hac parte callide & subdole decipere & defraudare prædict. W.P. non fecit valere 200 l. &c. & amplius licet postea, scilicet, die, anno, &c. apud, &c. prædict. per eund. W.P. inde requisit. fuit, sed ad hoc faciend. hucusq; recusavit, & adhuc recusat, ad damn. &c.

*For stopping up another's Light, for depriving him
of Ayr, and the passage of Rain.*

T P. &c. queritur de A.B. &c. de placito transgr. super Cas. quare cum prædictus T.P. per spacium septem annorum nunc ult. præterit. fuit & adhuc existit seifitus de un. antiquo Messuag. cum pertin. in S. prædicta in Dominico suo ut de feodo, in quo Messuag. præfat. T.P. & familia sua per totum tempus prædict. inhabitaver. & adhuc inhabitant. Ac etiam cum prædictus A.B. per spacium trium annorum ult. elaps. fuit & adhuc existit possessionat. de un. al. Messuag. cum pertin. in S. prædicta adjacent. & contigue eidem Messuag. ipsius T.P. ex parte occident. ejusd. Messuag. ipsius T.P. Ac etiam cum in dicta parte occident. ejusd. Messuag. ipsius T.P. à tempore cujus contrarii memoria hom. non existit fuer. & adhuc existunt due antike Fenestre parcell. ejusdem Messuag. ipsius T.P. per quas Fenestras non solum lumen usitat. fuit fulgere in dict. Messuagium ad illud illuminand. sed etiam salubris aer usitat. fuit ingredi in dict. Messuag. pro salubritate ipsius T.P. & familie sue in eodem residend. Et prædictus T.P. de Messuag. suo prædicto sicut præfertur seifit. Et dictus A.B. de dicto Messuag. suo cum pertin. possessionat. idem A.B. præmissorum non ignarus, sed malitiose intendens Fenestras prædictas obstruere, & eund. T.P. de lumine & aere salubri prædictis Fenestras in Messuag. prædictum ipsius T.P. fulgend. & ingredi-

grediend. deprivare, tali die & anno, apud S. prædict. construxit & crexit, & à tempore illo hucusq; continuavit quandam dom. super pec. terr. voc. le *back-side*, parcell. dict. Messuag. ipsius A.B. adeo prope eide Messuag. ipsius T.P. & duobus Fenestris prædictis, quod non solum due Fenestre prædictæ obstru. fuer. & per illud præfat. T.P. & familia sua deprivat. de lumine & aere salubri quæ usitat. fuer. per dictas Fenestras in Messuag. prædicto ipsius T.P. fulgere & ingredi, sed etiam aquæ pluviales à Messuag. prædicto ipsius T.P. cadent. impedit & pluvia in transeund. adeo impedit. ad & subter fundament. ejusdem Messuag. ipsius T.P. Unde Fundament. ejusdem Messuag. labefact. & Messuag. probabiliter ruitur, ad grave damn. ipsius T.P. 20 l. Et inde producit sectam, &c.

For teaching the Defendants Child the Latin Tongue, &c.

P. G. per I. R. Attorn. suum queritur de I. A. de placito *Ebor. f.* transgr. super Cas. &c. eo quodcum prædictus I. A. primo die *Aug.* anno, &c. apud &c. in Com. &c. in consideratione quod prædictus P. G. pro & durant. tempore 12 mensium & vigint. dierum tunc ult. præterit. docuisset & instituisset I. A. fil. natural. ejusdem I. A. in rudimentis & doctrina Lingue Latine, & à prædicto primo die *Augusti*, anno præd. apud H. præd. docuisset & instituisset præfat. I. S. fil. tamdiu placeret ambabus partibus, in doctrina Lingue Latine prædict. super se assumpsit. & eidem P. G. adru. & ibidem fidelit. promisit, quod ipse idem I. A. pater tantas denariorum summas quantas prædict. P. pro instructione & doctrina ejusdem I. A. fil. per totum tempus prædict. rationabiliter mereretur eidem P. cum ipse idem I. A. pater inde requisit. fuisset, bene & fidelit.olvere & contentare veller. Et prædictus P. G. in facto dic. quod ipse promissioni & assumptioni prædictis præfat. I. A. patris fidem adhibens, instituit & docuit eundem I. A. fil. in doctrina prædicta, à prædicto primo die *Aug.* usq; ad ult. diem *Julii*, anno, &c. Et quod ipse idem P. pro instructione & doctrina prædict. ejusdem I. A. fil. durant. toto tempore prædict. existend. duodecim menses & vigint. dies

dies rationabilis. meruit. viginti. solidis legalis monere Angl. prædictus tamen I.A. pater promissionem & assumptionem suas prædictas minime curans, sed machinans & fraudulent, intendens eundem P.G. &c.

For Dyet, and time given for payment of the debt.

ND. per, &c. queritur de I.B. de placito transgr. super Casum, Eo quod cum quinto die, &c. apud, &c. prædictus I.D. indebitat. fuit eidem N.D. in octodecim solidis, &c. pro cibo & potu quibus præfat. N.D. ipsum supplevit, & sic indebitat. existend. in consideratione quod prædictus N.D. ad tunc & ibidem apud Castr. Ebor. in Com. Ebor. & infra libertat. & jurisdictionem hujus Cur. ad special. instanc. & requisitionem ejusdem I.D. tempus daret pro solutione eorundem 18 s. usq; ad prox. diem sequend. ipse idem I.S. super se assumpsit, & eidem N.D. ad tunc & ibidem fidelit. prox. diem bene & fidelit. solvere & contentare vellet. Et licet prædict. N.D. usq; ad prox. diem sequend. & hucusq; pepercit solutionem eor. 18 s. prædictus tamen I.D. promissionem & assumptionem suas prædictas minime curans, sed machinans & fraudulent. intendens eundem N.D. &c.

*Upon an Assumpsit to save one harmless upon
Obligation.*

Ebor. ff.

AB. virtute brevis de Justic. &c. queritur. de C.D. de placito transgr. super Cas. &c. Eo quod cum prædictus A.B. (die & anno) apud Castr. Ebor. in Com. prædicto, & infra Jurisdictionem hujus Cur. ad special. instanc. & requisitionem prædicti C.D. per scriptum suum obligator. gerend. dat. eidem die & anno, obligat. fuit una cum prædicto C.D. & pro debito ipsius C.D. propriis cuidam E.F. super condition. inde indors. quod si prædictus C.D. eidem E.F. ad certum diem in eadem conditione content. 10 l. legalis, &c. solveret, quod tunc scriptum illud vacuum foret & effect. nullius, aliter staret & remaneret in robore

bore & virtute suis : prædictus C.D. postea, scilicet, tali die anno & loco, &c. in consideratione prædicta super se assumpsit, & eidem A.B. adtunc & ibidem fidelit. promisit quod prædictus C.D. omnibus temporibus tunc postea exoneret præd. A.B. versus prædict. E.F. à prædicto scripto obligatio; prædictus tamen C.D. promission. & assumption. minime curans, nondum exoneravit præd. A.B. à prædicto scripto obligator. licet ad hoc faciend. sepius requisit p eund. A.B. Unde idem A.B. dic. quod deteriorat. est, & damn. &c.

For keeping a Dog accustomed to bite Sheep.

A B. virtute, &c. queritur de C.D. &c. quod cum prædictus C.D. apud M. servabat & retinebat quendam canem ad mordend. oves consuet. scient. canem illum ad mordend. oves esse consuet. qui quidem canis vigint. verveces, anglice *weather-sheep*, vigin. & matrices, anglice *Ewes*, & vigin. agnellas ipsius A.B. ad valorem x l. apud, &c. prædict. invent. xxii die *Maii*, anno Regni Dom. nunc Regis *Caroli Secundi* xliii, tam graviter mordebat, quod ii oves & ii agnell, prædict. per morsum ejusdem canis adtunc & ibidem interierunt: Unde idem A.B. dic. quod deteriorat. est & damnum habet ad valenc. xx l. Et inde produc. sectam, &c.

Ebor. ff.

Another.

A B. virtute brevis, &c. queritur de C.D. de placito, &c. quod cum prædictus C.D. 8 die *Junii*, anno, &c. apud, &c. quendam canem ad mordend. oves assuet. retinebat, sciens canem, &c. (ut supra) qui quidem canis die & anno apud, &c. prædict. oves, scilicet, sexdecim verveces, & trigint. oves matrices, & octo agnell. ipsius A.B. fugavit & momordit, ita quod per fugation. & morsum illa sex de prædict. vervicibus, xii de prædictis Oviculis, & quatuor de prædictis agnellis ad valor. x l. interierunt, & resid. scilicet, octodecim Ovicularum gravidarum agnell. suas projecit. abort. Et resid. didorum Vervicum multo deteriorat. fuerunt; Et alia enormia, &c.

Against

Against an Inn-keeper for a Horse lost.

A B. virtute brevis, &c. queritur de C.D. Hospitatore de placito transgr. super. Casum, quod cum 'ecundum' leges & consuetudines hujus Regni Angl. Hospitatores qui communia Hospitia tenent & servant ad Hospitandum viatores per eas partes ubi hujusmodi Hospitia existunt & in illis Hospitat. preservare tenentur nocteq; dieq; bona sua infra Hospitia illa, absq; aliqua diminutione vel damno, ita quod per defect. hujusmodi Hospitatorum vel servient. eorum nullum damnum ullo modo contigerit vel acciderit Hospitibus suis. Et cum præd. C.D. ante x die *Marcii*, anno, &c. ac eodem x die, &c. commune Hospitium voc. *the Sign of the white-Hart in Skipton in Craven* præd. in Com. prædict. & infra libertat. jurisdiction. hujus Cur. tenuit & servavit, & ipsum eundem A.B. in eodem Hospitio tanquam Hospitem suum adtunc & ibidem accepit. Et præfat. A.B. adtunc & ibidem in Hospitium prædictum unum Spadonem albi coloris, precii x librarum importavit, quem quidem Spadonem præd. C.D. in custodia sua adtunc & ibidem recepit & habuit; quidam tamen Malefactores præfat. A.B. incognit. postea, scilicet, prædicto x die *Marcii*, anno prædicto E.F. Spadonem prædictum sub Custod. præd. C.D. in Hospitio prædict. existend. adtunc & ibidem invent. pro defectu bone conservationis prædicti C.D. & servientium suorum, ceperunt & abduxerunt, contra legem & consuetud. prædictas. Unde idē A.B. dic. quod deteriorat. est & damn. habet, &c.

Upon a Horse-Raise.

Eber. ff.

G G. per I.R. Attorn. suum queritur versus D.M. de placito transgr. super. Cas. &c. Eo quod cum (tali die & anno) apud, &c. quoddam colloquium habitum fuit inter præd. G.G. & D.M. concernend. Cursum Equestrem currend. per Spadonem ipsius G.G. & Spadonem ejusdem D.M. à B. prædicta, ad quandam domum voc.

Dixit

Dexts in Com. prædicto : super quod Colloquium sic habuit in considerationem quod prædict. G.G. ad special. instanc. & requisitionem ejusdem D.M. ad tunc & ibidem solvit & deposuit in man. cujusdam *Margarette* ux. cujusd. I.W. duos solid. & sex denar. legalis, &c. ac etiam in considerationem quod prædictus G.G. ad tunc & ibidem se obligavit dare & deliberare eidem D.M. prædict. Spadon. ipsius G.G. si Spado ille non supercurreret dict. badium Spadonem ejusdem D.M. à B. præd. ad dictam domum voc. *Dexts*. Et quod si prædictus G.G. ibidem non relinqueret spiram ejus, anglice *his Hatband*, antequam dictus Spado veniret ad dictam domum voc. *Dexts* præfat. D.M. dict. 20 die *Maii* anno prædicto, apud B. prædictam, & infra jurisdictionem hujus Cur. super se assumpsit, & eidem G.G. ad tunc & ibidem fidelit. promisit, quod si prædictus Spado ejusdem G.G. supercurreret dict. Spadonem ipsius D.M. à B. prædicta ad dictam domum voc. *Dexts*; & quod præfat. G.G. Spiram suam ibidem relinqueret antequam dictus Spado ipsius D.M. ad dictam domum veniret, quod tunc præfat. D.M. prædict. Spadonem ejus eidem G.G. ad usum ipsius G.G. daret & deliberaret, cum idem D.M. inde postea requisit. fuisset. Et prædict. G.G. in facto die, quod prædict. Spado ipsius G.G. ad tunc & ibidem supercurrerat dict. Spadon. ejusdem D.M. à B. prædicta ad dictam domum voc. *Dexts*; Et quod ipse idem G.G. relinquebat spiram suam ibid. antequam prædictus Spado ipsius D.M. veniret ad dictam domum voc. *Dexts*. Ac etiam cum dicto xx die *Maii*, anno prædicto, apud B. prædictam, & infra jurisdictionem prædictam, in considerationem quod prædictus G.G. ad special. instanc. & requisitionem ipsius D.M. ad tunc & ibid. solvit & deposuit in man. dict. *Margarette* ux. dict. I.W. duos solid. & sex denar. legalis, &c. Ac etiam in considerationem quod prædictus G.G. ad tunc & ibidem se ipsum obligavit solvere præfat. D.M. xx s. con similibus legalis monete, modo si prædictus Spado ejusdem G.G. non supercurreret prædict. badium Spadonem ipsius D.M. à B. præd. usq; ad dictam dom. voc. *Dexts*; Et quod præfat. G.G. ibid. non relinqueret spiram suam antequam dictus Spado ipsius D.M. veniret ad dictam domum prædictus D.M. prædicta xx die *Maii*, anno suprad. apud B. prædictam infra jurisdictionem prædict. super se assumpsit, & eidem G.G. ad tunc & ibidem fidelit. promisit, quod si præ-

prædictus Spado ejusdem G.G. supercurreret prædict. Spadonem ipsius D.M. à B. prædicta ad domum prædictam voc. *Dextis*; Et quod prædictus G.G. spiram suam ibidem relinquerat antequam prædictus Spado ipsius D.M. ad domum prædictam veniret, quod tunc præfat. D.M. xx s. &c. eidem G.G. cum ipse idem D.M. inde postea requisit. fuisset, bene & fidelit. solvere & contentare vellet. Et prædictus G.G. ut prius in facto dic. quod ejus Spado prædict. ad tunc & ibidem supercurreret Spadonem prædictum ipsius D.M. à B. prædicta usq; ad domum prædictam voc. *Dextis*; Et ipse idem G.G. spiram suam ibidem relinquebat antequam dictus Spado ipsius D.M. ad dom. præd. voc. *Dextis* veniret: prædictus tamen D.M. promission. & assumptionibus prædictas minime curans, sed machinans, & fraudulent. intendens eundem G.I. in hac parte callide & subdole decipere & defraudare, prædict. Spadonem ejusdem D.M. eidem G.G. nondum deliberavit, nec prædict. xx s. eidem G.G. nondum solvit, seu aliqualit. pro eisdem contentavit, licet præd. D.M. postea, scilicet, xxi die *Maii*, anno, &c. apud B. prædicta, & infra Jurisdiction. prædictam, inde requisit. fuit: Unde prædictus G.G. dic. quod deteriorat. est, & damn. habet ad valenc. &c. Et inde produc. scctam. &c.

Another upon a Horse-Race.

Ebor. ff.

IH. virtute brevis, &c. queritur de B.D. de placito, &c. Eo quod cum xx die *Maii*, anno, &c. apud Castrum, &c. quodd. Colloquium mot. & habit. fuisset inter præd. I.H. & præfat. B.D. de & concernend. cursum equestr. currend. per cessiam equam ipsius I.H. & badium Spadonem ejusdem B.D. ter circa cursum sicut sudibus posit. fuit, voc. *A Town Race*, existend. super Moram de A. prædicta: super quod colloquium ad tunc & ibidem concordatum fuit inter prædictum I.H. & eundem B.D. quod præfat. I.H. equitaret cursum prædict. super eund. cessiam equam; Et quod prædictus B.D. equitaret cursum prædict. super præd. badium Spadonem; Et quod prædicti B.D. & I.H. componerentur, & qui eorum minus foret ponderosus, quæretur tanto ampliori pondere quantum ipsum æqui ponderis cum altero faceret; & super hoc agreement. prædictus I.H. ad tunc

ad tunc & ibidem solvit dicto B.D. xx s. Et in consideratione inde idem B.D. ad tunc & ibid. super se assumpsit, & eidem I.H. fideliter promisit ei solvere xl s. &c. si præd. cesia equa ipsius I.H. curs. prædict. lucraret; ac etiam quod præd. B.D. curs. prædict. curreret tanto pondere quant. ipse careret de pondere dict. I.H. Et prædict. I.H. in facto dic. quod prædict. I.H. & B.D. adt. componderat. fuer. & quod prædicti B.D. invent. fuit minus ponderos. dicto I.H. viz. quatuor. dec. libr. utraq; Et inde dict. B.D. congruenter onerat. fuit pondere, & prædict. B.D. ad tunc & ibid. dict. curs. cucurrit: prædict. tamen B.D. promission. & assumption. suas prædictas minime curans, sed machinans & fraudulent. intendens eund. I.H. in hac parte callide & subdole decipere & defraudare, ipse idem B.D. xx die Maii, curs. prædict. non cucurrit super dict. badium Spadon. equo pondere dicto I.H. juxt. promission. prædict. & postquam cursus finit, prædict. B.D. componderari dicto I.H. recusavit. ita quod prædict. B.D. eund. I.H. in hoc decedit: Unde dic. quod deteriorat. est & damn. habet ad valenc. 5 l. Et inde produc. sectam, &c.

*For keeping a Child, and finding it meat,
drink, and apparel.*

Ebor. f.

E B. virtute, &c. queritur de R.E. placito transgr. super Cal. &c. Eo quod cum (tali die & anno) apud &c. in consideratione quod præd. E.B. ad special. instanc. & requisition. ejusd. R.E. quend. A.B. fil. dicti R.E. super corp. ejusd. E.B. per ipsum procreat. cibo, potu & amictibus competend. manuteneret, & servaret, & al. necessariis, ita quod dict. puer in defectu ipsius E.B. ne unquam postea eidem R.E. onerosus esset ipse idem R.E. die & anno præd. apud, &c. super se assumpsit, ac eidem E.B. ad tunc & ibid. fideliter promisit, quod ipse idem R.E. 7 l. legalls monete Angliæ eidem E.B. cum inde postea requisit. fuisset, bene & fideliter solvere & contentare veller. Et præd. E.B. in facto dic. quod ipsa eadem E.B. eund. A.B. à die & anno præd. usq; huc, cibo, potis amictibusq; competend. & al. necessariis manutenuit & servavit, ita quod præd. puer ex tunc hucusq; præd. R.E. non oneravit: præd. tamen R.E. promiss. & assump. &c.

For breach of Articles.

B F. per breve, &c. queritur de T.F. de placito transge. super Cas. &c. Eo quod cum primo die *Marcii*, &c. anno, &c. apud, &c. In consideration. quod przd. B.F. super se assumpsit, & eidem T.F. 13 l. &c. promissit, quos ipse postea, ante institution. hujus secte, solvit eidem T.F. przf. T.F. super se assumpsit & eidem B.F. adtunc & ibidem fidelit. promissit, quod ipse przf. T.F. quendam W.F. fil. ejusdem B.F. pro Apprentic. suo acciperet servire przd. T.F. in arte sive mysterio Pellionis, à przd. primo die *Marcii*, usq; ad plenum finem & terminum septem annorum, extunc prox. sequend. & quod przd. T.F. post finem trium quarter. un. anni prox. post przd. prim. diem *Marcii*, instituerit, informaret, & educaret eundem W.F. in arte emend. & vendend. lan. apud L. in Com. Ebor. vel consimiles al. locos ubi przd. T.F. adtunc frequentabat vel postea frequentaret durand. termino przd. Et quod przd. T.F. durand. termino przd. non causaret vel cogeret przd. W.F. ad aliquod servile opus faciend. circa eundem mysterium Pellionis : & quod przd. T.F. durand. termino przd. inveniret przf. W.F. cibatum, potum, amicta, lintea & laneos, tibialia, calceos, ac omnia al. necessar. pro Apprentic. habere ; Et quod przd. lint. lan. tibialia, calcei, ac omnia al. necessar. à tempore in tempus provis. erint invent. pro przd. W.F. per eundem T.F. tam bon. quam ipse idem W.F. haberet tempore advent. ejus eidem T.F. Et sic daret ei simil. ad finem przd. termini septem annorum : Et quod przd. T.F. sigillaret & deliberaret eidem W.P. un. indentur. script. pro performance convention. przd. & al. usual. convention. de Apprentic. in eo genere : przd. tamen T.F. promission. & assumptionem suam przd. minime curans, sed machinans, & fraudulent. intendens eundem B.F. in hac parte callide & subdole decipere & defraudare, przd. W.F. Apprentic. suum esse ad serviend. eidem T.F. in arte sive myster. Pellionis non accept. durand. termino przd. sed cum Apprentic. suum esse accipere recusavit secund. promissionem przd.

præd. quamvis præd. W.F. parat. fuit & obtulit *servire* præd. T.F. in dicto mysterio secund. convention, præd. neq; præd. T.F. unquam post præd. tres quarter. un.ann. Instituit, informavit, vel educavit præd. W.F. in mysterio five arte emend. & vendend. lanas apud L. præd. vel al. locos, prout præd. T.F. tunc frequentabat secund. promission. præd. licet sepius requisit. neq; præd. T.F. sigillabat & deliberabat Indentur. script. eidem W.F. pro performance. convention. præd. ac al. usual. cōvention. de Apprentic. In eo genere, quamvis ult. die *Septembris*, anno, &c. apud Castr. Ebor. in Com. Ebor. & infra Jurisdiction. hujus Cur. præd. B.F. obtulit eidem T.F. Indentur. script. ad eund. propositum & requisivit præd. T.F. eandem præd. W.F. deliberare. Unde præd. W.F. dic. quod deteriorat. est & damnum habet ad valenc. xx l. Et inde produc. sectam, &c.

Upon a promise for over-loading a Horse.

P Per breve, &c. querit. de D. de placito, &c. Eo quod cum præd. D. tali die, anno & loco, in consideration. quod præfat. P. ad special. instanc. & requisitionem. ipsius D. accommodaret eidem D. quandam Equam ipsius P. ita quod quidem G.D. filius ipsius D. super eandem equam equitet & itineretur à vill. de L. in Com. præd. usq; ad B. in Com. *Lancastrie*, super se assumpsit ac eidem P. ad tunc & ibidem, scilicet, (tali die, anno & loco præd.) fideliter promissit quod præd. G.D. equam præd. in itinere præd. nullo modo superoneraret, vel allqualiter opprimeret sed eandem equam cum inde requisit. fuisset eid. P. incolumem deliberaret: & præd. P. in facto dic. quod ipse promission. & assumptionem. præfat. D. fidem adhibens, postea, scilicet, (præd. die, anno & loco) equam præd. præfat. D. accommodavit, ita quod præd. G.D. equitet & itineretur super eandem equam, ut præd. præd. tamen G.D. equum præd. in itinere præd. provocabat, superlaborabat, & talibus oneribus prægravabat, quod equa præd. per superoperationem, equitationem & superoneration. præd. interit; Et sic præd.

D. promission. & assumption. suas prædict. non performavit,
ad dam. ipsius P. x. Et inde produc. sectam. &c.

Promise to save harmless against a Bond.

R R. virtute brevis, &c. querit. de C.L. de placito transgr.
super brevis, &c. quare cum præd. C.L. tali die &
anno, &c. apud, &c. in consideratione quod prædict. R.R.
adtunc & ibidem ad special. instanc. & requisition. ipsius
C.L. teneri & obligar. vellent cuidam G.W. per quodd.
script. suum obligator. debet. forma juris faciend. sigillat.
& ut fact. ejus deliberat. In 24 l. bone, &c. sub condition.
pro solutione 12 l. 12 s. consimilis, &c. eidem G.W. super
primum diem *Maii*, tunc proxim. sequend. apud vel in
tunc dom. manotinal. prædict. G.W. scituat. In, &c. per
prædict. R.R. & C.L. vel eorum alter. faciend. super se as-
sumpsit, & eidem R.R. adtunc & ibidem videlicet, tali die,
anno, &c. prædict. apud L. præd. scilicet, in, &c. præd. fi-
deliter promisit quod præfat. C.L. prædict. 12 l. 12 s. ei-
dem G.W. super prædict. primum diem *Maii* in exone-
ration. script. obligator. prædicti, solvere vellent: & præ-
dict. R.R. extunc postea, de & concernend. script. obligator.
prædict. indempnem & sine dispendio servare & præstare
vellent. Et præd. R.R. in facto dic. quod ipse promission. &
assumption. ipsius C.L. præd. fidem adhibens, postea, scili-
cet, eodem ult. die O. anno, &c. præd. apud L. &c. ad in-
stanciam & requisitionem ejusdem, una cum præfat. C.L.
pro debito peculiar. & propr. ipsius C.L. per script. suum
obligator. debet. forma juris fact. sigillat. & ut fact. suum
deliberatum obligat. devenit in prædict. 24 l. sub condi-
on. solutione prædict. 11 l. 12 s. eidem G.W. super præd.
primum diem *Maii*, modo & forma prædicta faciend.
prædict. tamen C.L. promission. &c. minime curans, sed
machinans, &c. defraudare prædict. 12 l. 8 s. eidem
G.W. super prædict. primum diem *Maii*, secund. form. &
effectum conditionis prædict. nondum solvit, aut eundem
G.W. pro eisdem aliquallter contentavit, nec eundem
R.R. de & concernend. script. obligator. prædict. indem-
pnem & sine dispendio servavit & præstavit, licet ad hoc faci-
end. præfat. L. postea, scilicet, (tali die, anno & loco) præd.
per

per eund. R.R. requisit. p. quod & quia prædict. 12 l. 12 s. præfat. G.W. super prædict. prim. diem *Maii*, secund. form. & effectum condition. prædict. insolut. fuer. prædict. G.W. postea, scilicet, (tali termino & anno) in Cur. &c. coram, implacitavit eund. R.R. de & super script. obligato. prædict. de prædict. 24 l. Et placit. illud in tant. prosecut. fuit, idem R.B. non solum 3 s. libras de & super script. obligator. prædict. præfat. G.W. solvere coact. & compuls. fuit, sed etiam diversis denar. sum. circa defension. secte prædict. expendere & erogare compuls. fuit : Unde dic. quod deteriorat. est, & damn. habet ad valenc. &c.

Trove.

IB. virtute brevis, &c. querit. de I.C. placito transgr. super. Cas. Eo quod cum prædict. I.B. die anno, &c. apud Castr. &c. posses. fuisset de un. cesia Equa, anglie ene Gray Mare, perc. x l. ut de bonis & catall. suis propriis) & sic inde possessionat. prædict. I.B. die anno, &c. prædict. prædict. Equam extra man. & possession. suas casualiter perdidit & amisit ; quæ quid, equa postea, scilicet, die, anno, &c. apud Castr. &c. ad man. & possession. ipsius I.C. devenit præd. ramen I.C. cert. scien. equam prædict. fore equam ipsius I.B. ad ipsum de jure spectare, & machinans eund. I.B. de prædicta Equa decipere, licet se plus requisit. &c. prædict. equam eidem I.B. non reddidit, sed præfat. I.C. postea, scilicet, die, anno & loco, &c. eand. equam in usum & commod. suum proprium disposuit, & convertit, ad grave damn. ipsius A.B. Unde dic. quod deteriorat. est & damn. habet ad valenc. xx l. Et inde produc. sectiam.

Detinne.

TV. virtute brevis, &c. per E.B. Attora. suum queritur de R.M. de placito quod reddat. ei bona & catalla ad valenc. xx l. &c. quæ ei injuste detinet. &c. p. eo cum præd. T.V. die, anno, &c. apud Castr. Ebor. deliberavit eid. R.M. un. Yacc. nigri coloris, ad valenc. C s. un. cesum Equulum,

Trespas.

anglice a Grey Nagg, ad valenc. x l. & xlii virgat. gallici virid. panni lat. anglice *French green Broad-cloth*, ad valenc. Cs. salve custodiend. & eidem T.V. cum ipse idem R.M. inde requisit. fuisset deliberand. prædict. tamen R.M. licet sepius inde requisit. bona & catalla prædicta eidem T.V. nond. redeliberaverit, sed illa ei hucusq; redeliberare contradixit, & adhuc contradicit & injuste detinet. Unde præd. T.V. dic. quod deteriorat. est & damn. habet ad valenc. x l. Et inde produc. sectam, &c.

For breaking the Plaintiffs Stall in the Market.

AO. queritur de W.C. de placito transgr. Eo quod prædict. W.C. die, anno, &c. apud S. in Com. prædicto, & infra jurisdictionem hujus Cur. super ipsum eundem A.O. insult. sec. repositorium, anglice a *Stall*, ibidem in Mercato edificat. fregit & intravit, & mercimonia sua videlicet, alutam, anglice *Dress Leather*, ad valenc. Cs. super repositorio suo prædicto improbit. disposuit. profiernavit & spoliavit, & al. enormia ei intulit, ad grave damn. ipsius A.O. Unde dic. quod deteriorat. est & damn. habet ad valenc. x l. Et inde produc. sectam, &c.

For breaking the Plaintiffs Close, &c.

IA. queritur de T.S. de placito transgr. &c. Eo quod cum præd. T.S. die, anno, &c. quendam clausum ipsius I.A. voc. C. apud S. in Com. &c. fregit & intravit, & herbam ipsius I.A. ad tunc & ibidem existend. valor. xs. cum quibusdam averiis, videlicet, Vaccis, bobus, juvenc. equis, porcis & bidentibus depast. fuit, conculcavit, consumpsit & spoliavit, transgressionem prædictam à prædicto die, anno, &c. præd. durand. termin. unius mensis integr. tunc proxim. sequend. diversis diebus & vicibus continuand. ac alla enormia ei intulit, ad grave damnum ipsius I.A. Unde dic. quod deteriorat. est damn. habet ad valenc. xxxl s. Et inde produc. sectam, &c.

For

For a Dog biting of a Mare, so that she died

H S. queritur de W.P. de placito transgr. Eo quod cum præd. W.P. die, anno, &c. apud, &c. unam Equam ipsius H.S. præc. x l. adtunc & ibid. invent. verberavit, vulneravit, & fugavit, ac etiam cum quodam cane momordit, i. a quod ratione verberationis, fugationis, vulnerationis, & morsus ejusd. Eque, adtunc & ibid. præd. Equa interit: Et al. anormia ei intulit, ad grave damn. &c.

For chasung of Hogs with Dogs, &c.

A A. querit. de C.D. de placito transgr. quare duos porcos ipsius A.B. apud M. invent. quibusdam canibus fugavit, ita quod ratione inde præd. porci præc. xl s. interierunt: & al. enormia, &c.

For pasturing Sheep in a rotten pasture, by reason whereof they died.

A B. querit de D.C. de placito transgr. quare claus. ipsius A.B. apud L. fregit, & 260 oves ipsius A.B. præc. xl s. ibid. nuper invent. cepit & effugavit, & eos in quend. insalubri pastur. infra vill. præd. & ex malicia sua eosd. oves tamdiu detinen. super pastur. præd. quod illi oves insalubritate illius pastur. putrid. & insalubres existend. interierunt. & al. enormia, &c.

For digging and ploughing the Plaintiff's ground, and taking away his Corn.

T S. queritur de G.G. de placito transgr. quare præd. G.G. die, anno, &c. claus. ipsius T.S. existend. un. acr. terre

Trespas.

terre arabili. jacend. in B. fregit & intravit, & solum ejusdem Clausis aratro suo effodit & proscidit; & postea, scilicet, die & anno, &c. prædict. apud B. prædict. & infra jurisdictionem prædict. quare prædict. G.G. clausum prædict. ipsius T.S. fregit & intravit, & Garbas suas, scilicet, duas caretatas avenarum ipsius T.S. ibidem nuper defalcavit. ad valenc. xxx s. cepit & asportavit; Et al. enormia ei intulit, &c.

For taking away a Post.

A B. queritur de G.D. de placito transgr. &c. quare clausum ipsius A.B. apud F fregit & quend. nov. postem ipsius A.B. ibid. in sol. posit. & affixum, ad valenc. xxx s. cepit & asportavit, & alia enormia, &c.

For eating the Grass, cutting the Hedges, and assaulting the Plaintiff.

A B. &c. queritur de C.D. de placito transgr. &c. quare cum prædictus C.D. x die Maii, anno, &c. apud Casfr. &c. in Com. prædicto, & infra libertatem & jurisdictionem huius Cur. Clausum ipsius A.B. apud S. fregit & intravit, & herbam suam ad valenc. xxx s. ibidem nuper crescent. cum quibusdam averiis depast. fuit, concalcavit & consumpsit, & al. herb. suam ad valenc. 6. s. ibid. nuper crescent. pedibus ambuland. concalcavit & consumpsit; Ac etiam in ipsum A.B. adtunc & ibidem insult. fec. & ipsum verberavit, vulneravit & male tractavit, ita quod de vita ejus desperabatur; necnon sepes suas ibid. prostravit; Et al. enormia, &c. ad grave damn. ipsius A.B. xxxix s. xl d. Et inde product. lectam, &c.

Trespas and Assault.

TH queritur de I. S. de placito transgr. & insult. &c. Eo quare prædictus I. S. die, anno, &c. apud Castr. Ebor. insult. & affraliam fecit in ipsum eundem I. H. & ipsum ad tunc & ibid. verberavit, vulneravit, & male tractavit, ita quod de vita ejus desperabatur; Et al. enormia ei intulit, ad grave damn. ipsius I. H. &c. Unde dic. deteriorat. est, &c. xxx s. Et inde produc. sectam.

Assault upon one at under-age.

WE. qui per A. S. proxim. amicum suum, ex gratia hujus Cur. admissus ad ad prosequend. pro prædicto W. E. quia infra etatem xxi annor. existit, virtute brevis de Justic. querit. versus T. C. de placito transgr. & insult. &c. Eo quod prædict. T. C. die, anno, &c. in & super præd. W. E. insult. & affraliam fecit, &c. ut in allo.

Upon a Replevin.

AB. queritur versus T. L. de placito, quare bona & catalla ipsius A. B. cepit, & ea injuste detinuit, contra vad. & pleg. &c. Pro eo quod cum prædict. T. L. die, anno, &c. apud S. &c. in quodam loco ibid. vocat. R. in Com. prædicto, &c. bona & catalla ipsius A. B. videlicet, sepe. Vaccas ad valenc. xxx l. cepit; Et easdem injuste detinuit, contra vad. & pleg. quousq; &c. Unde prædictus A. B. dic. quod deteriorat. est & damn. habet ad valenc. 49 s. Et inde produc. sectam, &c.

Placita

Placita Nil debet.

E T. przd. A.B. ven. & defend. vim & Injur. quando, &c. & dic. quod przd. I.G. action. suam przd. vers. cum habere non debet, quia dicit quod ipse idem I.A. nil debet przf. I.G. modo & forma prout przd. I.G. superius vers. przd. I.A. narravit : & de hoc pon. se super patriam, &c.

Non Assumpsit.

E T. przd. H.B. ven. & defend. vim & Injur. quando, &c. & dic. quod ipse non assumpsit & promisit przf. T.R. modo & forma prout przd. T.R. vers. cum narravit : Et de hoc ponit se super patriam, &c.

Non Assumpsit infra sex annos.

E T. przd. W.B. ven. & defend. vim. & Injur. quando, &c. & dic. quod ipse idem W.B. infra spacium sex annor. ante inceptio. hujus sette non assumpsit super se, vel solv. promisit przf. T.B. przd. sum xxx s. modo & forma prout przd. T.B. superius vers. eundem W.B. narravit ; Et de hoc pon. se super patriam, &c.

Ne unques Executor.

E T. przd. E.H. ven. & defend. vim & Injur. quando, &c. & dic. quod przd. T.C. actionem suam przd. vers. cum habere non debet, quia dic. quod ipse nunquam fuit Executor. testamenti & ultime voluntar, przd. R.H. nec aliqua bona seu catalla quz fuer. ejusdem R.H. tempore mortis sue ut Executor. testamenti & ultime volunt. przd. R.H. post mortem ipsius R.H. unquam

quam administravit; Et hoc præfat. E.H. parat. est verificare: Unde pet. Judicium si præd. I.C. actionem suam præd. versus eum habere sive manutenere debeat, &c.

Plene Administravit.

E T. præd. M.A. ven.& defend.vim & Injur.quando, &c. & dic. quod præd. A.B. action. suam præd. versus eum habere non debet, quia dic. quod ipse plene administravit omnia bona & catalla quæ fuer. præd. T.A. tempore mortis sue, & quod ipse nulla habet bona & catalla quæ fuer. præd. T.A. tempore mortis sue in manibus suis administrand. nec habuit tempore intrationis hujus loquel. Ipsi A.B. nec unquam postea; Et hoc parat. est verificare: unde per. judicium si præd. A.B. action. suam præd. versus eum habere debeat, &c.

Replication.

E T. præd. A.B. dic. quod ipse per aliqua preallegat. ab actione sua præd. habend. præcludi non debet, quia dic. quod præfat. M.A. die Intrationis hujus loquel. scilicet, die, anno, &c. apud Castr. præd. & infra jurisdiction. præd. diversa bona & catalla habuit quæ fuer. præd. T.A. tempore mortis sue in manib. suis administrand. ad valenc. debiti præd. unde eidem A.B. de debito præd. satisfecisse potuit; Et hoc pet. quod inquiratur per patriam: Et præd. M.A. similiter, &c.

Non culp.

E T. præd. G.W. ven.& defend.vim & Injur.quando, &c. & dic. quod ipse in nullo est culpabilis de transgr. præd. prout præd. I.C. superius versus eum narravit; Et de hoc pon. se super patriam, &c.

Infra

Infra aetatem.

E T. prædict. H.C. ven. & defend. vim & injur. quando, &c. Et quod prædict. W.B. action. suam prædict. vers. cum habere non debet, quia dic. quod ipse tempore confession. script. obligator. prædict. fuit infra aetatem xxi annor. Et hoc parat. est verificare; unde pet. judicium si prædict. W.B. action. suam prædict. versus cum habere debeat, &c.

Solvit & Release.

E T prædict. J.I.S. ven. & defend. vim. & injur. quando &c. Et dic. quod prædict. I.W. action. suam prædict. versus præfat. I.S. habere non debet, quia dic. quod prædict. I.W. post confession. ejusdem bille, & inception. hujus feste, videlicet, die, anno, &c. apud, Castr. &c. per quodd. script. suum, &c. cognovit & confessus est se fore plenar. satisfact. & content. de prædicta summa C.s. in billa prædicta mentionat. & inde acquiescavit & relaxavit eundem I.S. de & ab omnibus actionib. quas prædict. I.W. versus eund. S. ratione confession. bille prædictæ habere possit; Et hoc parat. est verificare; unde pet. judic. si prædict. I.W. action. suam præd. versus cum habere debet, &c.

Liberum tenementum.

E T. prædictus H.S. ven. & defend. vim & injur. quando, &c. Et dic. quod prædictus W.B. action. suam præd. habere sive manutenere non debet, quia dic. quod clausum præd. voc T. apud F. in narratione superius mentionat. in quo transgr. præd. suppon. fieri, est & prædicto tempore quo supponitur transgr. præd. fieri, fuit solum & liberum tenement. ipsius H.S. per quod præd. H.S. fragit, & intravit in claus. prædict. voc. T. & blada & herbam ibidem crescend. & existend. pedib. ambulando conculcavit &

& consumpsit, ac al. blada; herb. & fen. in clauso prædict. existend. cum equis, bob. & vaccis depast. sult, conculcav. & consumpsit, transgr. prædict. prout in narratione prædicta superius specificat. continuand. prout ei bene licuit; Et hoc parat. est verificare; unde per. judic. si præd. W.R. action. suam prædict. versus eum habere debet, &c.

Plea al. Jurisdiction.

E T. prædict. G.F. in propria person. sua ven. & dic. quod prædict. C.B. action. suam prædict. vers. præfat. G.F. in hac Cur. habere sive manutenere non debet, quia dicit quod actio præd. est placit. ad reddend. compot. &c. Unde præd. G.F. per. judic. si ista Cur. placit. prædict. cognoscere velit, &c.

Judgment Arrest.

E T. præd. R.M. dic. quod veredict. præd. versus eum reddit ex parte præfat. M.S. existere vel prosequi non debet, quia dic. quod narratio prædicta & materia in ea content. insufficiens est in lege ad action. prædict. versus eum dand. sive manutenend. Unde per. judicium, & quod loquela & veredict. prædict. quassat. sint & pro nullo habeantur, & quod prædict. querens nihil recipiat per loquel. suam & veredict. supradict. &c.

Conditiones perform. super Articulis.

E T. præd. W.C. ven. & def. vim & injur. quando, &c. & per. audit. scripti præd. & ei legitur, &c. per. etiam audit. conditionis ejusd. scripti & ei legitur, in hæc verba, (videlicet) *The Condition of this Obligation (recite all the Condition)* quib. lectis & audit. Idem W.G. dic. quod præd. C.G. action. suam præd. versus eam habere non debet, quia dic. quod artic. in condition. præd. superius mentionat. fac.

Pleadings.

fact. fuer. apud Y. In, &c. die, anno, &c. przd. inter eund. C.G. de A. in dicto Com. gen. ex una parte, & przd. W.G. per nomen W.G. de eisdem Vill. & Comit. Toman, ex altera parte, cujus quidem alteram partem signat. cum sigill. ejusdem C.G. przd. W.G. hic in Cur. profert. cujus dat. est eodem die & anno, Imprimis, (*recite all the Articles throughout*) & przf. W.G. dic. quod ipse performavit & servavit omnia & singula conventiones confessiones, articulos, clausas, sentenc. & agreement. quecunq; in articulis przd. specificat. ex parte sua observand. performand. complend. & servand. secund. formam & effectum eorundem Articulorum; Et hoc parat. est verificare: unde pet. judicium, si przd. C.G. action. suam przd. versus eum habere debeat, &c.

Replicatio.

E T. przd. C.G. dic. quod ipse per aliqua preallegat. ab actione sua przd. habend. versus przf. W.G. precludi non debet, quia protestando quod ipse idem W.G. non performavit sive servavit aliqua contentiones, concession. articulos, clausas, sentenc. vel agreement. in articulis przd. specificat. ex parte sua performand. & servand. prout przd. W.G. placitando superius allegavit. pro placito, przd. C.G. dic. quod przd. W.G. non, &c. (*recite the breach*) secund. formam & effect. eorund. articulo. Et hoc parat. est verificare: unde pet. judicium, & debiti suum przd. una cum damnis suis occasione detentionis debiti illius, sibi adjudicari, &c.

Rejoinder.

E T. przd. W.G. dic. quod ipse (*recite here, that he did perform the breach which the Plaintiff assigned*) secund. vim & effectum dictorum articulo. Et de hoc pon. se super patriam: Et przd. C.G. similiter, &c.

Nil detinet.

E T. præd. R.S. ven. & defend. vim & injur. quando, &c. & dic. quod ipse catalla præd. præfat. R.L. non detinet, neq; aliquam parcell. In modo prout præd. R.L. superius vers. cum narravit; Et de hoc pon. se super patriam, &c.

Barr per Acquittance.

Quando, &c. action suam habere non debet, &c. quia dic. quod post confession. scripti præd. (scilicet) die, anno, &c. querens per quandam billam suam acquietanc. quam dict. defendens sigillo querentis signat. hic in Cur. profert, cujus dat. est eisdem die & anno, acquietavit & exoneravit ipsum eundem defendentem per nomen, &c. de omnibus actionibus, placitis, demand. debitis, computis & litibus à principio mundi usq; diem dat. ejusdem bille; Et hoc, &c. si judicium, &c.

Replicatio.

Querens dic. quod præcludi non debet, &c. quia dic. præd. billi acquietanc. non est factum suum; Et hoc per. &c.

Justification de Slander.

E T. &c. quando, &c. Et dic. quod præd. G.L. actionem suam præd. versus cum habere non debet, quia dic. quod ante diction. scandalosorum verborum pretens. in narratione præd. mentionat. (videlicet) die, anno, &c. apud, &c. præd. G.L. un. Vervecem, anglice *a weather Sheep*, ad valenc. x. s. &c. de bonis catt. ipsius H.A. in narratione præd. mentionat. ad tunc &

& ibidem invent. felonice furavit, cepit & asportavit. contra pacem Dom. Regis nunc, &c. prætextu cuius prædictus F.G. postea, scilicet, die, anno, &c. apud, &c. scandalosa verba preterit. in narration. prædict. mentionat. dixit, affirmavit & declaravit eidem L.G. videlicet, *Thou* (præfat. L.G. innuend.) *art a Thief, and stole H.A's Sheep*: Et hoc parat. est verificare; unde pet. iudicium, si prædict. L.G. action. prædict. inde versus eum habere debet, &c.

Tender amends in Replevin.

E T. præd. H. dic. &c. just. caption. &c. advocare non debet, quia dic. quod post tempus prædict. caption. anterior. prædictor. in loco prædicto, in quo, &c. & ante diē emanationis præcept. de replegiar. ipsius H. scilicet, die, anno, &c. prædict. apud W. prædict. præfat. H. obtulit xlii d. ad solvend. eidem W. & I. ad usum ejusd. W. pro damnis ipsius W. quæ sustinuit occasione transgr. prædict. quam averia prædicta in prædictis duabus acris terr. fecer. qui quidem xlii d. fuer. suffic. emend. pro transgr. prædicta quam averia prædicta in prædictis duabus acr. terr. fecer. quos quid. xlii d. præd. W. & I. ad tunc & ibid. de cod. H. recipere penitus recusabat: & hoc, &c.

Solvit to part, and to tender to other part.

E T. &c. quando, &c. & dic. quod prædict. I.G. action. suam prædict. versus eum habere seu manutene-
re non debet, quia quo ad xx s. parcelle, &c. idem I. dic. quod præfat. I.A. die, anno, &c. ante inceptum. hujus actionis bene & fidelit. solvit eidem I.G. xx s. part. supra mentionat. debet, in narratione prædicta specificat. videlicet, apud B. præd. & infra Jurisdiction. hujus Cur. Et quoad quinq. solid. & lx denar. resid. debiti, in narratione prædict. specificat. idem I.A. ulterius dic. quod ipse postea, scilicet, die, anno, &c. præd. ante inceptum. hujus actionis

actiones apud B. præd. obrulit eidem I.G. præd. quinque solid. & sex denar. quos quidem quinq; solid. & sex denar. idem I.G. adtunc & ibidem acceptare recusavit: Et hoc præfat. I.A. parat. est verificare, & per. judic. Cur. si præd. I.G. action. suam præd. versus eum habere debeat, &c.

Replication.

E T. præd. I.G. quoad placitum præfat. I.A. quoad præd. xx s. parcell. debiti præd. dic. quod ipse per aliqua præallegat. ab actione sua præd. versus eum habend. præcludi non debet, quia dic. quod præd. I.A. non solvit præd. xx s. eidem I.G. prout præd. I.A. superius allegavit; Et hoc pet. quod inquiretur per patriam: & præd. I.A. similiter, &c.

Et quoad præd. placit. ejusd. I.A. quod præd. quinq; solid. & sex denar. resid. debiti prædicti præd. I.G. dic. quod præd. placitum ejusdem I.A. modo & forma præd. placitat. & mater. In eodem content. non est sufficiens in lege ab actione sua præd. versus eundem I.A. habend. præcludend. Et quod placito præd. modo & forma præd. placit. ar. necesse non habet, neq; tenetur per legem respondere; Unde pro defectu sufficien. responsionis in hac parte, præd. I.G. per. judicium, & præd. s. s. 6. d. resid. debiti sui præd. una cum damnis suis, occasione detentionis debiti illius sibi adjudicari, &c.

Demur to the other Plea.

Non est factum.

E T. &c. quando, &c. Et dic. quod ipse de debito præd. virtute scripti præd. onerari non debet, quia dic. quod script. præd. non est fact. suum; Et de hoc pos. se super patriam, & præd. A. similiter, &c.

Per minas.

E T. &c. quando, &c. Et dic. quod præd. A. action. suam præd. versus eum habere non debet quia dic. quod præd. A. tempore confessionis script. præd. apud N. præd. eidem B. tales & tantas minas de vita sua, & mutilatione membrorum suorum sibi inferend. imposuit, nisi ipse script. præd. præfat. A. facere & sigillare vellet: quod idem B. script. illud. ob met. minar. illar. præfat. A. adt. & ibid. fecit; Et hoc parat. est verificare: unde pet. iudicium si præd. A. action. suam præd. virtute scripti præd. versus eum habere debeat, &c.

Replica.

E T. præd. A. dic. quod ipse per aliqua præallegat. ab actione sua præd. habend. præcludi non debet, quia dic. quod præd. A. tempore confession. scripti præd. fuit sui juris ad largam, & scriptum illud ex mero & spontan. voluntate sua præfat. A. fecit, & non ob metum minarum præd. R. placitando allegavit; Et hoc pet. quod inquiretur per patriam: & præd. B. similiter, &c.

Per duress.

E T. &c. quando, &c. Et dic. &c. quia dic. quod tempore confession. script. præd. imprisonat. fuit per eund. A. & al. de coquina sua, videlicet, apud N. præd. & ibid. in prisona detent. quousq; idem B. per vim & duritiem imprisonment. illius script. illud adtunc & ibid. eidem A. fecerat: Et hoc parat. est verificare; unde pet. iudicium, &c.

Replic.

Replie.

E T. przd. A. dic. quod ipse, &c. quia dic quod przd.

B. tempore confectio's scripti przd. fuit sui juris ad largum, & extra quamlibet prifon. & script. illud ex mera & spontanea voluntate sua eidem A. fecit, & non per vim & duritiem imprisonment. prout przfat. B. superius allegavit; Et hoc per. quod inquiratur per patriam; Et przd. B. similiter, &c.

De son assault demefne.

E T. &c. quando, &c. Et quoad transgr. & insult. przd. superius fieri fupposit. idem I.R. dic. quod przd. R.W. action. suam przd. versus eum habere non debet, quia dic. quod przd. R.W. die, anno, &c. przd. in ipsum I.R. apud Castr. &c. insult. fec. & ipsum verberasse, vulnerasse, & male tractasse voluit, per quod idem I.R. seipsum erga przfat. R.W. adtunc & ibidem defendebat: & dic. quod damnum & malum si quod eidem R.W. adtunc & ibidem evenit, hoc fuit de insult. ipsius R.W. propr. & in defensione ipsius I.R. Et hoc parat. est verificare; unde per. judic. si przd. R.W. action. suam przd. versus eum habere debeat, &c.

Replie.

E T. przd. R.W. dic. quod. ipse per aliqua przallegata ab actione sua przd. habend. præludi non debet, quia dic. quod przd. I.R. die, anno, &c. supradict. apud &c. in narratione sua przd. superius specificat. vi & armis, &c. de injur. sua propr. & absq; causa p przfat. R.W. superius allegat. in ipsum R.W. insult. fec. & ipsum verberavit, vulneravit, & male tractavit; Ita quod de vita ejus desperabatur, contra pacem Dom. Regis nunc; prout idē

R.W. superius versus eum queritur; Et hoc pet. quod inquiratur per patriam, & præd. I.R. similiter; Ideo, &c.

Quod quer. est infra ætatem, & debuit prosequi per proxim. amicum.

ET. &c. quando, &c. Et dic. quod præd. I.R. actionem suam præd. versus eum habere non debet, quia dic. quod præd. I.R. die & anno in narratione specificat. scilicet, die, anno, &c. & die emanationis brevis de Justic. ipsius I.R. scilicet, die, anno, &c. fuit infra ætatem viginti. & unius annorum; Et quod præd. I.R. versus eundem P.G. narravit in loquela præd. per Attorn. suum, cum per debitor. form. Legis narrasse debuit per prox. amicum suum; Et hoc parat. est verificare; unde pet. iudiciū si præd. I.R. actionem suam præd. versus eum habere debeat, &c.

Non cul. ad partem, and tender amends ad al. partem.

ET. &c. quando, &c. Et quoad fraction. Clausi præd. ac etiam quoad conculcation. bladum & herbe præd. pedibus ambuland. in eisdem quatuor acr. terr. præd. de novo assignat. superius fieri supposit. dic. quod ipse in nullo est culpabilis, &c. Et de hoc pon. se super patriam, & querens similiter. Et quoad resid. transgr. præd. in eisdem quatuor acris terr. de novo assign. superius fieri supposit. Idem A. dic. quod præd. B. actionem suam prædictam habere non debet, quia dic. quod resid. transgr. præd. in eisdem quatuor acr. terr. de novo assignat. superius fieri supposit. fuit fac. cum averlis prædictis per negligentiam, & contra voluntatem ejusdem A. Et quod idem A. postea & ante inceptio. hujus actionis ipsius B. scilicet, 16 die *Maii*, anno, &c. apud eandem Parochiam de R. In dicto Com. Ebor. eidem B. obtulit. xx s. legalis moner. *Angl.* pro & in satisfaction. resid. transgr. præd. sicut præfertur fact. qui quidem xx s. sufficiens. emend. fuer. pro eod. resid.

fid. transgr. præd. in eisdem quatuor acr. terr. cum pertin. de novo assignat. ut præfertur fac. Et hoc præd. B. præd. xx s. sicut præfertur oblat. de eodem A. recipere adtunc & ibidem penitus recusavit, & adhuc recusat; Et hoc parat. est verificare; unde, &c.

Replic.

E T. præd. B. quoad placit. præd. ipsius A. quoad dict. resid. transgr. præd. in eisdem quatuor acris terr. cum pertin. de novo assignat. fact. dic. quod ipse per aliqua in eodem placito præallegat. ab actione sua præd. versus eum habend. præcludi non debet, quia protestand. quod præd. resid. transgr. præd. in eisdem quatuor acr. terr. cum pertin. de novo assign. non fuit fact. averiis præd. per negligentiam & contra voluntatem ejusdem A. protestando etiam quod præd. xx s. in satisfactione transgr. præd. non oblat. fuer. ante eandem diem inception. secte ejusd. B. prout præfat. A. superius allegavit, pro placito idem B. dic. quod præd. xx s. oblat. fuer. per eundem A. eidem B. pro quadam transgr. per eundem A. cum averiis præd. eidem B. in quodamal. Claus. terr. cum pertin. vocat. le S. ipsius B. in Paroch. de R. præd. in Com præd. fact. absq; hoc quod idem A. obtulit eidem B. præd. xx s. pro & in satisfactione præd. resid. transgr. præd. in eisdem quatuor acris terr. de novo assign. fact. prout idem A. superius allegavit; Et hoc parat. est verificare; unde quia idem A. præd. resid. transgr. præd. in eisdem quatuor acr. terr. cum pertin. præd. de novo assign. fact. superius cognovit; idem B. per. judicium, & damna sua occasione resid. transgr. præd. sibi adjudicari.

Rejoynd. r.

E T. præd. A. ut prius dic. quod ipse obtulit eidem B. præd. xx s. proxim. satisfaction. ejusd. resid. transgr. præd. in præd. quatuor acr. terr. cum perrinen. de novo assign. fact. prout ipse superius allegavit; Et de hoc pon. se super patriam; Et præd. B. similiter: Ideo, &c.

Abatement per misnomer.

E T. præd. A. per Simon Don Attorn. suum ven. & per. Judic. de brevi de Justic. præd. quia dic. quod nomen baptism. ejusd. Agnet in brevi præd. nominat. est Anna, & non Agnet, prout præd. B. superius narravit; Et hoc parat. est verificare; unde pet. judicium de præd. brevi de Justic. Et quod præd. breve de Justic. quassetur.

Abatement per variance enter brief & Count.

E T. præd. A. per I.R. Attorn. suum ven. & per. Judicium de brevi de Justic. præd. quia dic. quod ipse est eadē persona versus quem præd. B. protulit breve suum præd. per nomen B.D. alias E. Yoman, & per idem nomen B.D. alias E. die impetrationis brevis de Justic. ipsius B. & semper postea hucusq; cognit. & vocat. fuit, & per idem nomen B.D. alias E. versus eund. A. in narratione sua præd. tunc declaravit; absq; hoc quod idem B. nominatur sive vocat. Johannes alias Henricus, vel per idem nomen B.D. alias E. ullo tempore cognit. vel vocat. Et hoc parat. est verificare; unde pet. judicium de brevi de Justic. præd. &c.

*Inholder plead al Trover que il detaine un cheval
pour ses victualls.*

ET præd. A. dic. quod ipse eodem tempore quo præd. Equus in narratione præd. specifical. ad man. suas venire supponit. & p. duos annos tunc ult. elaps. & semper postea fuit, & adhuc existit communis Hospitator, & tenet quoddam commune Hospitium voc. *le George* in Paroch. & Vill. de *Harwood*, in dicto Com. Ebor. & quod quidam C.D. xii die *Augusti*, anno præd. apud Paroch. & Vill. de H. præd. ad commune Hospitium ipsius A. ven. secum ducend. equum præd. in Hospitium præd. quem quidem equum præd. C.D. eodem xii die *Augusti* supradict. usq; xxiiii diem *Junii*, anno, &c. supradict. in Hospitio ejusdem A. ad pastum reliquit, & quod præd. pastus ipsius A. depast. & consumpt. infra idem Hospitium per eundem equum inter præd. xii diem *Augusti*. anno, &c. & præd. xxiiii diem *Junii* anno supradicto, valebat octo libr. & decem solid. legalis monete *Angliæ*: Et quod nemo infra tempus iud. solvit præfat. pro pastu præd. neq; pro eodem cum præd. A. composuit sive agreavit; unde quidam L.M.N.O. ac al. legales & probi honesti vicin. ipsius A. & inhabitand. & remanend. infra dictam Paroch. de H. in Com. præd. ad requisition. ipsius A. postea scilicet, xxiiii die *Junii*, supradict. apud Vill. & Paroch. de H. rationabiliter appreciarunt Equum præd. ad sex libr. & decem solid. & nil amplius; unde idem A. postea, scilicet, præd. xxiiii die *Junii*, anno præd. apud Paroch. de H. præd. eundem Equum in manibus suis retinuit: erga satisfaction. ejusd. A. pro pastu præd. & equum ill. ad usum A. propr. ad tunc & ibidem convertit & disposuit prout ei bene licuit; Et hoc parat. est verificare; unde pet. judic. si querens actionem, &c.

Placitum licentie.

ET. præd. A. quoad. transgr. præd. quoad fraction. Clausi præd. & depast. &c. cum averiis, &c. & conculcation. &c. pedibus suis superius fieri supposit. dic. quod idem B. ante tempus illud quo, &c. scilicet, xxii die Maii, anno, &c. apud Skipton præd. in Com. præd. & infra jurisdiction. huius Cur. licentiam dedit eidem A. in tenementa præd. cum pertin. (de novo assign.) intrare, & imponere averia præd. & herbam in tenementa præd. cum pertin. (de novo assign.) ad tunc & ibidem crescen. depascend. virtute cuius licen. Idem defend. eodem tempore quo, &c. in tenementa præd. cum pertin. in quibus, &c. intravit, & averia sua præd. ad herbam depascend. ibidem imposuit, & eadem averia eodem tempore quo, &c. virtute licen. præd. herbam præd. in tenementa præd. cum pertin. depast. fuer. conculcaver. & consumpser. quæ quidem fractio Clausi præd. & depast. conculcat. & consumptio herbe præd. cum averiis præd. in tenementis præd. cum pertin. superius de novo assign. & conculcatio & consumptio al. herbe præd. in eisdem tenementis pedibus ambulando virtute licen. præd. & pro causa præd. in forma sicut præfertur fact. est eadem fractio Clausi, &c. Et hoc, &c.

The Plaintiff replies, de injur. propria, and traverseth the liberty; and the Defendant justifies he gave the liberty, and issue thereupon.

Avowry pro redditu.

ET. præd. A. B. per S. D. Attorn. suum ven. & defend. vim & injur. quando, &c. & bene advoc. caption. averiorum præd. in præd. loco quo, &c. & iuste. &c. quia dic. quod præd. locus in quo, &c. est & tempore captionis præd. & ante fuit quatuor acr. terr. in M. præd. & dic. quod ante tempus captionis præd. superius fieri supposit ac.

pc eodem tempore præd. A.B. fuit seifit. in Dominico suo ut de Feodo, de un. mess. un. gardin. & quatuor acris terr. & un. aer. bosc. cum pertinen. in M. præd. de quibus idem locus in quo, &c. est & præd. tempore quo, &c. fuit parcell. & sic inde existen. seifit. eadem Messuag. Gardin. terr. & Bosc. cum pertis. diu ante temp. caption. præd. scilicet, ad Festum annuntiationis beate Marie Virginis, anno, &c. apud M. præd. eidem C.D. dimisit habend. sibi à Festo præd. tamdiu eadem A.B. placuerit, redd. inde annuatim eidem A.B. (tamdiu præfat. C.D. haberet & occuparet præd. messuag. Gardin. terr. & Bosc.) xxx s. ad Fest. Sancti Mich. Archang. & Annuntiation. beate Marie Virginis, per equal. portion. annuatim solvend. virtute cuius dimissionis præd. C.D. præd. messuag. Gardin. terr. & Bosc. cum pertin. à præd. Festo Annuntiationis, &c. usq; ad festum Annupriationis, &c. proxim. ante tempus caption. præd. habebat & occupaverat; Et quia xxx s. de redditu præd. virtute ejuldem dimissionis per tempus præd. eid. A.B. tempore captionis præd. in arrerag. remanser. & adhuc remanet. insolut. Idem A.B. bene advoc. caption. averiorum præd. in dicto loco in quo, &c. & injuste, &c. Et hoc parat. est verificare; unde pet. iudicium, & retora. averior. præd. sibi adjudicari, &c.

Barr in trespass; that the goods were delivered as a Pawn.

ET. præd. A.B. per, &c. ven. & defend. vim & injur. quando, &c. Et quoad fraction. Clausi, &c. in nullo est inde culpabilis, & de hoc, &c. & quoad resid. transgr. præd. superius fieri supposit. Idem A.B. dic. quod præd. C.D. actionem suam præd. habere non debet, &c. quia dic. quod idem C.D. diu ante præd. tempus quo, &c. eid. A.B. indebitat. fuit in xxii s. pro diversis denar. summis per eundem C.D. de præd. A.B. mutuat. & postea, & diu ante tempus præd. quo, &c. Idem C.D. apud, &c. eidem A.B. bona & catalla præd. deliberavit tanquam pignus pro præd. xxii s. tenend. eidem A.B. ut pignus quousq; præd. C.D. præfat. A.B. eisdem xxii s. solvisset. Et idem A.B. in facto dic. quod præfat. C.D. prædictos xxii s. eidem

eidem A.B. nond. solvit, quod est eadem transgr. & capris & asportatio bonor. & catallar. præd. unde præd. D.D. superius modo queritur; Et hoc, &c. Unde, &c.

Replæ.

ET. præd. C.D. dic. quod ipse per aliquis præallegat. ab action. sua præd. habend. precludi non debet, quia dic. quod præfat. A.B. de injur. sua propria, & absq; aliqua tali causa per ipsum eundem A.B. præallegat. die & anno præd. bona & catalla præd. apud R. in dicto Com. Ebor. invent. cepit & asportavit, prout præd. C.D. in narratione sua præd. superius supposit. Et hoc pet. quod inquiratur per patriam; Et præd. A.B. similiter. Ideo, &c.

Concord plead.

ET. præd. A.B. in propr. person. sua ven. & defendit vim & injur quando, &c. Et quoad transgr. præd. superius fieri supposit. Idem A.B. dic. quod præd. C.D. action. suam præd. versus eum habere non debet, quia dic. quod postquam transgr. præd. fieri supposit. fact. fuit. scilicet octavo die Julii, anno, &c. præd. apud S. præd. in Com. præd. & infra libertatem & jurisdiction. istius Cur. lidem A.B. & C.D. per mediation. E.E. & G.H. amicorum & familiaritat. suorum, inter eos, amicabiliter interveniend. talis habebatur concordia inter eos, viz. quod idem A.B. v. s. legalis monete *Angliæ* eidem C.D. pro amend. & satisfaction. ejusdem transgr. solveret; quos quidem v. s. &c. Idem A.B. præfat. C.D. ad tunc & ibidem solvit, secund. vim, formam & effect. concord. præd. Et hoc, &c. Unde pet. judic. &c.

Replie.

Replic.

E T. præd. C.D. dic. quod ipse per aliqua præallegat. ab Actione sua præd. habend. precludi non debet, quia dic. quod nunquam habeatur aliqua talis concord. sive agreement. inter ipsos C.D. & A.B. qualis præd. A.B. superius placitando allegavit; Et hoc per. quod inquiratur per patriam; Et præd. A.B. similiter, &c.

Avoiry pour Herriot.

E T. præd. C.D. per, &c. ven. & defend. vim & injur. quando, &c. Et quoad caption. ejusdem bovis idem C.D. bene advoc. caption. ejusdem bovis in dicto loco quo, &c. & juste, &c. quia dic. quod durante caption. ejusdem bovis superius supposit. quidam I.G. de un. messuag. cum pertin. in W. præd. fuit seifit. in Dominico suo ut de Feod. & sic inde seifit. idem I.G. illud tenuit de præd. C.D. per fidelitat. & redd. xii d. eidem C.D. annuatim ad Fest. Annunciation. Beate Mariae Virginis, &c. & Sancti Mich. Archang. per equal. portion. solvend. ac etiam per servic. quod unusquisq; tenend. ejusdem messuag. cum pertin. de eodem in Dominico suo ut de Feodo seifit. vel in usu à tempore cujus contrarii memoria hom. non existit debuit & consuet. fuisse eidem C.D. & hered. suis optim. animal ejusdem tenentis dict. messuag. cum pertin. sic decedend. inde seifit. in dominico suo ut de Feodo, vel in usu, per nomen Herrioti reddere; de quibus servic. præd. C.D. fuit seifit. per man. ipsius I.G. tanquam per man. veri tenentis ejus, videlicet, de præd. fidelitat. ut de Feod. & jure, & de præd. redd. in Dominico ut de Feodo: & postea idem I.G. de præd. messuag. cum pertinen. seifit. in Dominico suo ut de Feod. oblit, & quia præd. Bos fuit Bos propr. ejusdem I.G. tempore mortis sue, idem C.D. tanquam optimum animal quod fuit ipsius I.G. tempore mortis sue per nomen Herriot. cepit & juste, &c.

Barr for default of the Plaintiffs fences.

E T. præd. A. & B. per I.R. Attorn. suum ven. & defend. vim & injur. quando, &c. Et quoad. fraction. Clausi præd. & depast. conculcation. & consumption. herb. præd. lidem A. & B. dicunt quod præd. D. action. suam præd. versus eos habere non debet, quia dicunt quod idem A. & B. tempore transgr. præd. fieri supposit. fuer. & adhuc existunt seiscit. de quodam Clauso pastur. proxim. ad jacen. eidem Clauso ipsius D. In quo, &c. In S. præd. In Dominico suo ut de Feodo, inter quos quidam Clausos quedam est sepes seperan. quemq; ab al. præd. Clausis, quam quidem sepe præd. D. & omnes illi quorum statum ipse idem D. tunc habuit in Clauso præd. à tempore cujus contrarii memoria homin. non existit, facere, reparare & manutenere usi fuer. & dicunt quod sepes illa pro defectu reparation. & manurention. ejusdem fuit tempore transgr. præd. fieri supposit. rupt. & prostrat. & quod averia præd. A. & B. in eorum Clausis præd. ad depascend. posi. in præd. Claus. ipsius D. per rupt. & decass. ejusd. seplis, contra voluntat. eorundem A. & B. intraver. & herbam præd. depast. fuer. conculeaver. & consumpser. lidem A. & B. averia sua præd. recenter prosequen. in eund. Claus. ipsius D. per rupt. & decass. præd. ad averia sua in eund. Claus. ipsos A. & B. refugand. intraver. ac in Clausis illis celeriter fugaver. prout eis bene licuit, quod est eadem transgr. & fractio Clausi, & eadem depast. conculcatio & consumptio herbe præd. Unde præd. D. superius versus eos queritur; Et hoc parat. sunt verificare, &c.

Avowry

Avowry for dam. feasant.

E T. præd. A. per, &c. ven. & defend. vim & injur. quando, &c. & bene advoc. caption. vaccarum præd. in dicto loco quo, &c. & injuste, &c. quia dic. quod ipse seiscitus est, ac tempore captionis præd. seiscitus fuit de una messuag. & xlii ac. terr. cum pertin. in dicta Villa de S. de quibus locus in quo præd. vacc. capt. fuer. est parcell. in Dominico suo ut de feodo; Et quia ipse tempore caption. præd. vaccas præd. in loco præd. quo, &c. damn. faciend. invenit, præd. A. easd. vaccas in sol. & libero tenemento suo. damnum ibidem sic faciend. cepit. prout ei bene licuit; & hoc parat. est verificare, unde pet. judicium, & retora' averiorum præd. &c.

Misnomer in the Writ of Justicies.

E T. super hoc ven. *Alvered Pease* per W.O. Attorn. suum & dic. quod ipse virtute ejusdem brevis de Justic. existens. suum per-nomen *Abraham Pease*, nec est neq; intelligi potest esse eandem person. versus quam præd. E. protulit breve suum per nomen *Abraham Pease*, quia dic. ipse] nominatur & vocat. *Alvered Pease*, & per idem nomen & cognomen à tempore nativitatis sue semper cognit. & vocat. absq; hoc quod nominatur sive vocat. *Abraham Pease*, aut per idem nomen & cognom. unquam cognit. vel vocat. prout per breve illud supposit. Et hoc præd. *Alvered* parat. est verificare; unde pet. judic. præd. & quod idem breve quassetur. &c.

Non

Non cepit.

E T. præd. B per S.H. Attorn. suum ven. & defend. vim & injur. quando, &c. Et dic. quod ipse non cepit averia præd. prout præd. A. superius versus eum querit. Et de hoc pon. se super patriam, & præd. A. similiter, &c.

Barr in repleg. per property

E T. præd. B. per S. T. Attorn. suum ven. & defend. vim & injur. quando, &c. Et dic. quod propriet. averior. præd. tempore supposit. eorum captionis in præd. B. fuit, & non in præfat. A. Et hoc parat. est verificare; unde per. judicium, &c.

Demurrer ad narr.

E T. præd. B. per C. D. Attorn. suum ven. & defend. vim & injur. quando, &c. Et dic. quod Narratio ipsius P. & mater. in ea content. minus sufficien. in lege existunt pro præd. P. action. suam præd. habend. versus eum manutene- nere: Et quod eidem Narrationi modo & forma præd. fact. idem B. necesse non habet, neq; per legem terre tenetur respondere: Et pro causis moræ in lege in hac parte, præd. B. secund. formam Statut. in hac parte provis. ostendit Cur. hæc causas sequend. videlicet, quod Narratio in se continet duplicem & insufficien. materiam & formam caret; Et hoc parat. est verificare; unde pro defectu Narrationis sufficien. in hac parte, idem B. pet. judic. Et quod præd. P. ab actione sua versus eum habend. præcludatur, &c.

Joinder

Joinder in Demurrer.

E T. præd. P. dic. quod ipse superius narrand. in narratione sua præd. allegavit materiam in lege sufficientem action. suam præd. habend. versus eund. B. manutenere ; Et hoc parat. est verificare : quam materiam præd. B. non dedit, nec ei aliquid responsit, sed omnino recusat verification. illam admittere ; unde pet. judicium, & debitor. suum præd. una cum damnis occasione detentionis debiti illius sibi adjudicari.

Si in transgr. sic.

PEt. judic. & damna sua ratione ejusdem transgr. vel transgr. & insult. vel transgr. insult. & imprisonment. (*as the Case is*) sibi adjudicari, &c.

In case.

PEt. judicium & damna sua occasione superius specificat. sibi adjudicari, &c.

OF

OF THE
JUDICIAL
AND
MINISTERIAL
POWER OF
SHERIFFS.

TO treat of the Original or the first Institution of Sheriffs in this Nation, is not here necessary, being already done in the Tract of the County-Court, or first part of this our subject matter : Therefore we will initiate with the office of Sheriff, in which office he hath *triplicem custodiam*, a three-fold custody, *viz.*

1. *Custos vitæ Reipublicæ*, The Conservator of the life or peace of the Common-wealth.

2. *Custos vitæ Justitiæ*, The preserver of the life of Justice ; for no Suit doth commence, and no Process is executed but by him.

3. *Custos vitæ Legis*, The Guardian or Tutor of the life of the Law ; for after tedious and long-span Suits, he is to make due execution, which is the very life and spirit of the Law.

Custos vitæ Reipub.

His judicial and ministerial authority.

Now as he is *Custos vitæ Reipub.* or *Principalis conservator pacis* within the County, he hath a Judicial authority ; in the other two a Ministerial.

1. And

1. And first to discover his Judicial Power; and as he is a preserver of the Peace, he may (*ex officio*) upon request, command and cause another to find sureties of the Peace, and may take the same sureties by Recognizance; for all Obligations that he takes to that end, are as Recognizances in Law.

And if he see one man assault another, or if an assault be made upon himself, he may compel them to find sureties of the Peace, and may set them in the Stocks until such time as they do find them. See 5 H. 7. 6.

He may take (of the County where he is Sheriff) any number that he shall think convenient (300 if necessity require it) to pursue, apprehend, arrest, and imprison Traytors, Murderers, Robbers, Popish Recusants, and all Felons; to suppress Rebellions, Insurrections, or riotous Assemblies, or such as do break, or go about to break or disturb his Majesties peace: and every man (required) as well Dukes, Earls, Barons, as all other his Majesties Subjects within the same County, ought to aid and assist him; and such as do refuse may be fined to the King; and may attach all persons making such default, to appear and answer before the Justices of Assize.

He may arrest all persons by him suspected, or of evil repute, that shall walk by night or day, committing them to the Goal, to remain there until they shall be delivered by the Justices of Assize. 5 E. 3. cap. 14. *Cromp.* 103.

He may arrest all such persons as go or ride offensively armed, and may commit them to prison, there to remain during the Kings pleasure, unless they be delivered by the Justices before whom they shall be convicted; he may take their armor to his Majesties use, and prize it by the oaths of those that are present.

If a party after he is arrested make resistance, or shall make an assault upon the Officer, as the Sheriffs Bailiff, &c. the Bailiff may justify the beating of such resister, and such as disturb him in the execution of his precept, and may imprison them in the stocks. 2 E. 4. fo. 6. 21. H. 7. 39. See *Br. Trespas* 18. and 296. And if the party arrested and resisting be slain, it is justifiable. *Fitz. Con.* 261. *Doctor and Student* 133. 6. *Cromp.* 24. a. 40. b. *Sed quare.*

E

By

Judicial Power.

Fitz. N. B.

8. d. & 82.

as Re-

Term del

ley. tit. vifc.

44. E. 3. F.

Barr. 202.

5 H. 7. 6.

3 H. 7. f.

St. 3. Jac.

c. 4.

Br. Fines

37.

Offic. Co-

ron. 3 E. 1.

Suspected

persons.

Armed

persons.

2 E. 3. c. 3.

Cromp. 203.

He may

beat such

as resist

him, and

may set

them in the

stocks. 2 E.

4. fo. 6. 21. H.

7. 39. *Br.*

4. f. 6. 21 H.

7. 39. *Br.*

Tresp. 218.

& 296.

To enquire of waste, or to execute a writ of Redisseisin. By the 11 H.4.7 A.4.fo. 4. Br.Offic. fo.4. 9. 34. 37. and 42. the Sheriff in a Writ to enquire of waste, and a Writ of *Redisseisin*, he is both Judge, and the Officer of Record, and cannot delegate his Judicial power to any Bailiff of Franchise, but must enter the Liberty and execute it himself, otherwise it is error. And if upon the Writ of *Redisseisin*, the Sheriff by Inquisition find the Disseisee to be disseised again, he may presently take such Disseisor and commit him to Prison, there to remain during his Majesty's pleasure. See Co. 6. fo. 12. And in the Writ to enquire of waste and in the Writ of *Redisseisin*, whereby he is made Judge of the Cause, he must execute the same in proper person, and not by his Under-Sheriff, or other Deputy whatever. Stat. Mert. 3. 39 H. 6. 42. 29. Aff. pl. 42.

He may commit a disseisor to prison, &c. Co. 6. f. 12. Dalton office of Sher. fo. 18.

See more of his absolute Authority in the Sheriffs Turn, (and also in the County-Court) and what things are inquirable there, and by him to be punished.

His Ministerial power. *Custos vita justicie.*

Let us now descend to his *Ministerial Power* or Authority, which is dissected into two parts, viz. as he is *Custos vite Jusitie*, & *custos vite legis*.

2. *Custos vite justicie*. For no suit is commenced, nor process executed, but by him.

And first to demonstrate his initiation into his Ministerial part of his Office, viz.

Crom. 203.

The new Sheriff being elected and sworn, at or before the County next succeeding his Election, he is to deliver a Writ of discharge to the old Sheriff, who thereupon is to set over all his Prisoners that are then in the Goal severally by their names, together with all his Writs, precisely by view and Indenture made betwixt the two Sheriffs, wherein must be comprehended, and expressly specified all the actions which the preceeding Sheriff hath against every Prisoner: and till delivery of the Prisoners to the new Sheriff, they remain still in the custody of the old; as you may see in that learned argument more at large in *Westbys Case*, Co. 3. 72. Neither is the new Sheriff obliged to receive the Prisoners but at the Goal only: and upon the return and delivery of the Writs contained in the Indenture, if they were executed by the old Sheriff, the new Sheriff must indorse them in this manner.

Co. 3. 73. *Westbys case.*

I send you this Writ as it is indorsed, delivered to me by A.B. Esquire, late Sheriff my next Predecessor, in his going forth from his Office.

E.F. Esq, Sheriff.

The indorsement of such writs as are turned over to the new Sheriff by the old Sheriff.

Yet the old Sheriff (by the Statute of 12 E. 4. c. 1. and 17 E. 4. 6.) till the Writ of discharge be delivered to him, he may execute his Office. Stat. 12 E. 4. c. 1. & 17 E. 4. 6.

If a Sheriff die, or be removed before the usual time, no process shall be delivered to the Coroner, but the execution thereof shall stay until a new Sheriff be elected and sworn: But upon suggestion, that the Sheriff is of Kin to either party, process shall go to the Coroner. Stat. 12 E. 4. cap. 1. 22 H. 6. 51. 13 E. 4. cap. 6.

If the old Sheriff hath in his custody divers persons in Execution, and dieth, afterward a new Sheriff is Elected, it behoves the new Sheriff to take notice at his peril of all the Executions which are against any person that he finds in the Goal; and this is (*necessitatis gratia*) for necessities sake, for there is none to make delivery of them, or to give him notice who are in Execution and who not. And it is no detriment to the Sheriff if he keep them safe until he hath perfect knowledge of all the Executions; for if he may with impunity suffer such as are in Execution to escape, great inconvenience would thereupon ensue. Co. 3. 73. b. 1 *Westbys* Case. The new Sheriff is to take notice who are in Execution. Co. 3. 72. b. *Westbys* Case.

He is to preserve the rights of the King within his County, and to enquire what Lands are concealed from him, or with-holden, and to seize to his use the profit of such Lands as come to him by Attainder, or Escheat; and likewise the goods of any Felon, Fugitive, Out-law, Egyptian, goods received, and good confiscate, and wreck of the Sea. He is to preserve the Kings right, &c. 21 H. 7. 7. 4. Stat. Perk. 5. 6.

He ought to be vigilant that the Suits of his Majesty be done in his Majesties Court, viz.

- 1 Suit-Real, or Royal.
- 2 Suit-Service.

Suit-Royal, what? 1 And to declare what Suit-Royal is, It is a suit due to the Sheriffs turn, or Leet; which is so termed because of their allegiance.

Suit-Service what? 2 Suit-Service is due also to the Sheriffs turn or Leet, by reason of the tenure of a mans Land.

He must levy his Majesties debts, &c. He shall levy his Majesties debts by distress, either in the high-way, or common street. 52 H.3. cap. 15. Fitz. 173. And if he can find no goods elsewhere, he may distress in the Church, *Brook Distress* 35. and may sell such Distress after fifteen days. See *Brook Distress* 32. 40. & 72. and Stat. 51. H.3.

52 H.3.c. 15. Fitz. 173. Br. Dist. 35. 32.40. & 72.stat. 51. H. 3. Issues. Dalt. office of Sher. fo.25. b. Amerciaments. He is accountable to his Majesty for all manner of Issues and Profits of the County; and by his Office (upon Process out of the Exchequer) he is to gather up, and to bring into the Exchequer such Issues and Profits, &c. And likewise such Issues lost and returned in respect of Non-appearance of the Defendants, or of Jurors, shall be forfeited to his Majesty, and shall be levied by the Sheriff. See *Dalt'un*, fo.25.b.

Mag. Chav. 14.westm. 1.c.18. He is also accountable to the King for, and upon Process, &c. and is to gather up, and to bring into the Kings Exchequer, all amerciaments and fines which shall be set or assessed (as a penalty) upon the heads of offenders against the King, in any of his Courts; which is to be understood of amerciaments upon the Plaintiff or Demandant, or upon the Tenant or Defendant in actions real or personal: as if the Plaintiff and Demandant be Non-suit, or if Judgment be given against the Tenant or Defendant, or upon the Plaintiff, *quia non est prosecutus*, or *pro falso clamore*, &c. or upon the Mainpernors, because the principal appears not, &c. In such case the Justices never assess any amerciament; but by the Stat. of *Magna Charta*, cap. 14. and *Westminster* 1. cap. 18 the amerciament ought to be assessed *per pares*: And the Court in such cases enters, *Ideo in misericordia*, general, without taxing or assessing any sum in certain: And when the Clerk of the Warrants in the common place makes E-streats

streats of these amerciaments, and delivers them to the Clerk of the Assizes wi hin every circuit, to deliver unto the Coroners in every County to assess the amerciaments. *Dalt. fo. 27. a.*

His Majesty shall have all amerciaments, fines, issues, and all forfeitures or Recognizances lost or forfeited, &c. before any of his Judges or Justices in any of their Courts or Sessions; but these must first be estreated into the Exchequer, and from thence process must be awarded to the Sheriff to levy the same to the Kings use. 33 H. 8. *Recognizance, Fines, Amerciaments, &c.* 33 H. 8. c. 39.

The Sheriff ought not to take or seize the goods of any man Arrested, Imprisoned, or Indicted for Felony, or for suspicion thereof, before the same person be duly convicted or attainted of the same Felony, (*viz.* either by Tryal, Confession, or Utliry and Judgment thereupon given) or that the same goods be otherwise lawfully forfeited, upon pain to forfeit the double value of those goods so taken to the party grieved. *He is to seize no goods of Felons, &c. till they be lawfully forfeited.*

By the Statute 1 R. 3. c. 3. Yet lest the goods should be disorderly wasted, or sold away, the Sheriff (before the attainder of the Felon) may take Sureties that the Goods be not imbezelled, &c. and for want of Sureties, the Sheriff, or other his Officers, may seize them, and deliver them to the Town, by them safely to be kept. *Brook tit. forfeit. 44. Plow. 68.* But yet the Felon must have reasonable maintenance for himself and his Family until he be Convicted, and the remainder shall be to his Majesty, &c. *1 R. 3. c. 3. But take Sureties he may, that the Goods shall not be imbezelled, &c. Br. tit. forfeit. 44. Plow. 68.*

If the Felon flie, the Sheriff is to seize all his Goods and Chattels, as also the profits of his Lands to his Majesties use. But yet by *Co. 4. 109. Plow. 262.* the goods, &c. of a Fugitive are not forfeited until the flying for Felony be lawfully found upon Record, either before the Coroner upon an Indictment, *super visum corporis*, in case of the death of a man, or by verdict upon his acquittal (for although he be found not guilty upon his Tryal, yet shall he forfeit his goods for his flying; *quia fatetur facinus, qui judicium fugit*, and the Law will admit no reproof against this presumption:) *Co. 5. 109 Plow. 262.* And albeit the Jury which tries him shall find him

Fitz. Forf. him not guilty, and further, that he did not flye, yet the goods are forfeit by force of the finding of his flying before the Coroner; and the Sheriff presently after such flying found before the Coroner, is to seize the goods, and the profits of the lands of such Offenders. See *Fitz.*

Felo de se. *Forf.* 32. Yet he that shall flie for Felony shall not forfeit the goods or profits of his Lands which he had at the time of the Felony or flying, but those only which he had at the time of the Indictment or acquital. *Co.* 5. 109. 5. 110. b. *Fitz. Coron.* 296. & 3. 4.

Must receive all writs, and execute them, &c. The Sheriff is to seize to the use of the King the goods and chattels of him that killeth himself, but he shall not forfeit his Lands: Yet if an Infant, a man *Non compos mentis*, or a Lunatick killeth himself, he forfeits nothing.

2 E. 3. c. 6. If a man be indicted for Felony, and absents himself so long as an *Exigent* is awarded against him, that shall be accounted a flying in Law, for which he shall forfeit all his goods, although he shall be acquitted afterwards of the Felony; and the Sheriff may presently *ex officio* seize them to the Kings use. *Co.* 5. 110. b. *Stamf.* 184.

to execute them either by word or Precept &c. The Sheriff, or his Under-Sheriff, shall receive all manner of Writs at all times, and in any place within the Shire, without taking of any thing, and shall make Warrants thereupon, *2 Ed. 3. cap. 5. Cromp.* 203. and shall be by him or his Bailiffs executed.

2 H. 7. 23. a. He may command his Under-Sheriff, Bailiff, or other known Officer to execute them, either by word or precept: But if his mandate be to a man (that is no known

Officer) to execute any Writ or Warrant, he must either deliver the Writ itself, or a precept in Writing in his own name, and under the Seal of his Office, otherwise an action of false imprisonment will lie for the Arrest.

Lamb. 91. 21 *H. 7. 23. a.* But if a precept be made to a Bailiff, and to a stranger or special Bailiff, *Conjunctim & divisim* and is not executed by the stranger only, it is good *Lamb.* 91. and *Daltons* office of Sheriffs 44.

He must not dispute the authority of the Judges, &c. that send writs to him, but must execute them. If a Writ issue out from the Judges, Justices, or the Court, he shall not stand capitulating or disputing their authority, or validity of the Writ; but ought to execute it. *Co.* 6. 54. 9. 68, & 10. 70. *Dr. and Student* 150. For he is obliged both by oath and office to execute all process of Law; and if a *Capias* be delivered to him without an

Original,

Original, he shall execute it, and is excusable in an action of false imprisonment; for he being the Officer and Minister of the Court, it is reasons adversary to punish him for executing the Mandates of the Court, according to the *Maxime*, Co. 13. 70. *Quicumque j. ssu judicis aliquid fecerit, non videtur ex dolo vel malo fecisse, quia parere necesse est*: He that acts any thing by the Mandate of the Judge seemeth that he acted not any thing fraudulently, or anis, because he must needs obey: But if the Court dilate it self beyond its jurisdiction, in that case all the proceeds are *Coram non judge*, and there an action doth lie against the Sheriff without any regard to the precept or process; for when he hath no jurisdiction, he is no Judge, and there is no necessity to obey them, no more then a meer stranger; and to back it with the Authority of a Rule or Axiome; *Extra territorium jus dicenti, non paretur impune*. He that obeyeth in prescribing Laws beyond his jurisdiction, shall not escape unpunished. Co. *ibidem* fo. 57. a & b.

A Bailiff need not shew his Precept when he cometh to execute it upon any man; Yet upon the arrest he ought to declare the contents of it. But if a Bailiff be specially deputed, or one that is not a known Officer, he must shew the Warrant to the party, Co. 9. 69. 21 H. 7. 23 and 37. Yet the special Bailiff is not obliged to shew it without demand. 8 E. 4. 14. 14 H. 7. 9. Co. *ibidem*.

If a Baliff by virtue of a precept from the old Sheriff after his discharge shall Arrest a man, this Arrest is tortious, and an Action of false imprisonment lyeth both against the Sheriff and the Officer. *Crompt. 205. b.*

Notwithstanding the ground or maxime of the Law, that *Dies Dominicus non est Juridicus*, and that no Judicial act ought to be done on that day; yet Ministerial acts, as to Arrest and execute process, are tolerated and allowed; for an Officer ought to execute his office whensoever he can find the party, otherwise peradventure they shall never be executed; and God forbid that things necessary should not be done on that day; for *bonum est bene facere Die Sabb. thi.*

In all cases where the Process concerns the King, the

L 4

Sheriff

Co. 10. 77

A Bailiff need not shew his precept when he executes it; but a

Special Bailiff must shew the Warrant, &c. Co. 9. 69. 21 H. 7. 23. & 37.

An Arrest by an old Sheriff after his discharge tortious.

If process may be executed upon the Sabbath day. Co. 9. 66.

He may
break open
a door to
execute
Process
concerning
his Majesty,
but not in
case of a
common
person.
Co. l. 5.
92. b. in
Seymans
Case.

Co. 11. 82.
a. Lewis
Bowles
Case.

Proclama-
tion to be
made four
times a
year. Stat.
Winche-
ster.
Statute a-
gainst un-
lawful
Games.
3 Custos
vitæ legis.

Sheriff, or other Officer (upon refusal after demand to open the door) may break open the door of the House, or use other means to get in to do execution: But in case of a common person, the Law doth not permit the Sheriff, &c. upon request made, and denial, to break into the house of the Defendant to execute any Process at the Suit of any Subject, for the great inconveniencies that might ensue thereupon; because if men as well in the night as in the day, should have their Houses (which in *re vera* are their Castles and Fortresses) broken open, upon pretence thereof, it would incur great mischief and damage; for by colour thereof, upon any feigned suit, the House of any man at any time might be broken open, when the Defendant might be Arrested elsewhere, and so men should not be in safety and repose in their own Houses. And although the Sheriff be an Officer of great Authority and confidence, yet it appears by daily experience, that his Majesties Writs are served and executed many times by Bailiffs, who are generally persons of little or no value or credit; and therefore not to be trusted with the breaking upon and ransacking of Houses upon every slight occasion. See Co. 11. 82. a. Lewis Bowles Case.

He ought (*impropria persona*) four times a year to proclaim the Statute of Winchester within every Hundred of his Bailiwick, and in all Fairs and Markets, by his Bailiffs. 7 R. 2. cap. 6. 13 E. 1. cap. 1. 28 E. 1. cap. 17.

The Statute provided against unlawful Games, is likewise to be proclaimed four times in the year in every Market and Fair within the County. 33 H. 8. cap. 9.

We will now handle the other Ministerial part of his office; and that, as he is *Custos vitæ legis*, which extends to his doing execution (after a tedious and long-spun suit) which is the very life and spirit of the Law. And this is divided into several branches, or kinds of Executions, *viz.*

Statute-Merchant.

Statute-Staple.

Recognizance.

Eligitt.

Capias

Capias ad satisfaciendum.

Fieri facias, &c.

Levari facias.

Of the last four Executions, two are by the Common Law, viz. 1 *Fieri facias*. 2 And *Levari facias*; and two by the Statute, viz. 1 *Elegit*. And 2 *Capias ad satisfaciendum*, 22 Affize 47. And note, that Execution by the Statute doth not oust Execution by the Common Law, no more than the Execution by one Statute ousts the Execution by another. 22 Aff. 47.

We are determined to insist upon all the seven, in discovering their natures, manner of executing them, &c.

And first of the *Statute-Merchant*.

Statute-Merchant.

IT is defined by *West. part. 1. Symb. L. 2. Sect. 151.* to be a Bond or Obligation of Record acknowledged before one of the Clerks of the *Statutes-Merchant*, and Mayor and chief Warden of the City of London, York, &c. or before the Bailiffs of any Borough, or other sufficient men for that purpose appointed, sealed with the seal of the Debtor or Recognizor, and of the King; which consists of two parts: the greater is kept by the said Major or chief Warden, &c. and the lesser part thereof by the said Clerks. The form of which you may see in *Fleta, Fleta, l. 2. lib. 2. cap. 64. &c.* c. 64. &c.

And if the Debt be not paid at the day, the proceeds upon it, to have the fruits and effects thereof, is not like to the proceeding in other cases or Suits upon Obligations, &c. to reduce them to judgment; but as they are in their own nature much like to the nature of a Judgment, so is the proceeding and execution thereupon, much like to the proceeding and execution upon a Judgment: And therefore the Conusee may bring an action of Debt upon a Statute, or he may

may as soon as the same is forfeited, have a present execution of it after this manner.

*How to sue
out an Ex-
ecution
upon a Sta-
tute-Mer-
chant.*

Certiorari

Capias.

*Extendi
facias,
what.*

He must bring his Statute to the Mayor and Clerk, or other Officer before whom it was acknowledged; and there if they find the Record of it, and the day to be past for the payment of the money, they are to apprehend and imprison the body of the Conusor, if he be a Lay person and can be found within their jurisdiction; and if he cannot be found there, they are to certify the Record into the *Chancery*; which also if they refuse to do, they may be compelled unto by a *Certiorari*: And if that Certificate be faulty, or execution be not done upon it, by reason of the death of the Conusor, or otherwise; the Conusee, or his Executor or Administrator, may have another Certificate; and thereupon he shall have a Writ of *Capias* out of the *Chancery* directed to the Sheriff of the County where the Conusor lives, to apprehend and imprison him (if he be not a Clergy-man) and this is to be returned into the *Common-Pleas* or *Kings Bench*: And when the Conusor is taken, he shall have time for a quarter of a year to make his agreement with the Conusee, and to sell his lands or goods to satisfy the Conusee: And for that purpose he may sell his lands or goods, although he be in prison, and his sale is good and lawful: And if in that time he do not satisfy the Conusee, or if upon the *Capias* the Sheriff return a *Non est inventus*; then by a Writ (or by divers Writs, if the lands or goods lie in divers Counties) called an *Extendi facias*, all his land and goods shall be delivered (by the Sheriff) to the Creditors upon a reasonable extent, to hold until the debt be paid: And if the Jurors or Appraisers upon the *Extendi facias*, over-value the lands or goods in favour to the Debtor, the Conusee hath no remedy, but by motion in that Court where the Writ is returnable, at the return-day, or at least the same Term wherein the Writ is returnable, to desire that the Appraisers may take the Land or goods at the rate they have valued them, in the same manner as the Conusee is to have them. But if the Conusee accept of the Lands and goods from the Sheriff, or suffer the Term to pass wherein the Writ is returnable, he is too late, and hath no remedy at all. And if the Appraisers do under-value the lands or goods in favour to the Debtee, it seems the

the Conusor hath no remedy at all, for he may at any time pay all or the residue of the debt and damages unlevied, and have his Lands again if he please: Yet nevertheless the body of the Debtor shall remain in Prison until the Debt be paid; and if there be Suitors, they shall receive no damage, so long as the Debt may be fully levied of the Goods of the Debtor.

Note, that upon the Statute-Merchant, or Staple, all the Fee-simple Lands which the Conusor had at the time of the said Statute acknowledged, or at any time after, shall be liable to the said Statute, to whomsoever they be afterwards sold, by alienation, feoffment, or otherwise. Stat. de Mercator. 13 E. 1. 27. c. 9. & 23 H. 8. c. 3. 11. But if the Debtor die, the body of his Heir shall not be taken, but his Lands in Fee that descend to him by the Conusor, shall be taken (as aforesaid) if he be of full age, or when he shall attain full age, until the said Debt be levied. Stat. ibid. Copy-hold Lands are not liable, nor shall be extended; nor Lease for term of life: But Lease for Term of years, and all other goods and chattels of the Conusor or Debtor are liable, and shall be extended, which the Conusor hath in his own Possession, and to his use, at the time of the Execution sued or awarded. But goods demised, pawned, or pledged, may not be taken in Execution for his Debt that demised or pledged them, during the time or term that they were demised or pledged. 22 E. 4. f. 10. 34 H. 8. Br. Pledg. 28. also goods distrained for Rent, amercement, damage-feasant, &c. and are impounded, in custodia Legis, during the time that they are so, may not be taken in Execution. See Br. Pledg. 28.

life; but Lease for term of years, &c. shall be extended, demised, pawned, or pledged, may not be taken. 22 E. 4. f. 10. 34 H. 8. Br. Pledg. 28. Nor goods distrained for Rent, &c. may not be taken.

If the Conusor of a Statute-Merchant, or Staple, &c. be taken, and die in Execution, yet the Conusor shall have execution of his Lands and goods. Co. 5. 86, 87. Fitz. 246. b. or if the Conusor be taken in Execution, and escape, yet his goods and Lands shall be taken and extended upon by may have Execution of his Lands and goods. Co. 5. 86. & 87. Fitz. 246. b. Or if the Conusor escape, his goods and Lands shall be extended.

the

the said Statute for the escape; and the Action that the Plaintiff had against the Sheriff for the escape, is no satisfaction of the Debt.

A Non est inventus Certificate of the Statute-Merchant was sued forth, and Execution sued in the same County: the Sheriff returned *Non est inventus*, for which the Plaintiff sued another Certificate to the Major, by reason of which the party was taken; and it was holden that the second Certificate was not grantable, yet the party taken would not be set at liberty, by 28 E.3.91. Execution 93.
able, yet,
&c. 28. E. 3. 91. Execution 93.

Several certificates in divers Courts upon one Statute, Where there are several Certificates in divers Courts upon one Statute, Execution sued in the one shall not stay that in the other, because they are intended several Courts upon Statutes; but it seems he may sue to the Major to certify if there be another Statute or not, and so be helped. 29 Aff.29. And because where a Certificate is sued in the *tute, Execution sued* Common-Pleas, and the same Plaintiff sues another in the *in the one* Kings-Bench, and the Justices were certified by the Major shall not that all was but one Statute, the parties caused the Record *stay that in* to come out of the Common-Pleas into the Kings-Bench, *the other.* and then a *Capias* shall issue out against the Conusor; and 29 Aff.29. yet one Conusor was taken before the Common-Pleas, 29 Aff.41. but it appeared that he afterward escaped. 29 Aff.41.
A Statute certified for the Testator, A Statute which was certified for the Testator shall by a special Writ be certified for the Executor, F.N.B. 132. so where it is not sufficiently certified before, so where the party keeps it in his hands, so where the first Certificate is lost; and if the Major will not certify it, a *Certiorari* shall be directed unto him. F.N.B. 244.
certified for the Executor. F.N.B. 132 F.N.B. 244.

The Major, &c. The Major of the Staple hath power to hold Plea of things done in the Staple, and upon a Statute acknowledged before him Execution may be sued, or in the Chancery at the pleasure of the party. 9 H.6. Jurisdiction 6.
hath power to hold Pleas done in the Staple.

Upon

Upon a Statute-Merchant, a *Capias* issued out of the Non est Chancery returnable in the Common-Pleas, the Sheriff inventus did return *Non est inventus*: Now *Capias* & *extendi facias* returned shall not issue out of the Common-Pleas without shewing upon a Statute to the Justices, although he had shewed *Cap.* in the same in the Chancery before: and if the Sheriff hath the Common-Pleas, returned *Cepi corpus*, and hath the Body here, if he do not shew the Statute, the party shall be discharged although it be lost; but upon a Statute-staple he must extendi shew the same upon the *Capias* awarded, but not afterwards, because in the same place. 37 H. 6. 6 & 7. *not issue out there,*
without shewing the Statute to the Justices, &c. 37 H. 6. 6 & 7.

It was holden, that if a Statute be certified, the Plaintiff shall have Execution without shewing of it; but if he doth not shew it at the day of the return, the other shall be at large, although he have Execution of the Body of one or of all the Defendants. 26 H. 6. Execution 6. See the Stat. of 5 H. 4. cap. 12. *the Statute*
must be shewed at the day of the return,
the Stat. of 5 H. 4. cap. 12. &c. 26 H.

Navasor said, that he saw where the Recognisee died, and a stranger came in his own name, and shewed the Statute, and had Execution, although the other came not in proper person: and upon a Statute made to two, if one come with it, he shall have Execution in both their names; and it is a common course, that every stranger who comes with the Statute, shall have Execution upon it in the name of the Recognisee. 12 E. 4. 10 & 11. Execution 14. *A stranger may have Execution where the Recognisee is dead. Or a Statute be made to*

two, yet one may have Execution, &c. 12 E. 4. 10 & 11. Ex. 14.

And upon *Non est inventus* returned upon the certificate where the Plaintiff died, his Executors shewed the Statute, and had Execution of it. 17 E. 3. 31. But see 18 E. 3. 10. he shall not have it without a *Scire facias*; *facias* beside *E. ix. Dyer, &c.* Consue of a Statute-Merchant had it certified in the Chancery, and thereupon had a *Capias* upon it and died; upon the shewing of the Statute his Executors had a *Scire facias*. *Executors must sue out a Scire facias; fore they can have Execution,*
&c. 17 E. 3.
31. 18 E. 3.
10.

The

Execution The opinion was, that if a man sue Execution of a
upon the Statute-Merchant in divers Counties, in each proportion-
Statute su- rable, viz. 20 l. in one, and 20 l. in the another County;
ed into di- yet upon Nihil returned in one County, he shall have ex-
vers Coun- ecution of the whole in the other, if he hath Assets there.
ties, upon 16 E. 3. Execution 49. And a man may well pray Ex-
Nihil re- ecution of the body in one County, and an *Elegit* of the
turned in Land in the other County. Execution 38.

one coun-
ry, he shall have Execution of the whole in the other, &c. 16 E. 3.
Excc. 49. 41. E. 3.

Statute su- If a Statute-Merchant be sued of parcel of the Lands
ed of parcel of the Conusor, in the name of all his Lands, he shall
of the never extend on the rest of the Lands, *Mic. 22. E. 3. f. 14.*
Lands in
the name of all, shall never extend the rest.

Three If three are bound to one in a Statute-Merchant, and
bound to every one of them by themselves, *quolibet eorum per se*,
one in a I may sue execution against one of them only, or against
Statute se- them all at my pleasure.
verally, ex-
ecution may be against one, or all.

Infant If an Infant bind himself in a Statute-Merchant, or Sta-
bound in a tute-staple, he may avoid this during his Non-age by *Au-*
Statute *d ta Querela*, to avoid this Staute by matter of fait; and
may avoid the like Law if the Statute be acknowledged by *dures* of
it during imprisonment. See *Andersons Reports, lib. 2. f. 185.*
his Minor.
&c. The like by *dures* imprisonm.

Statute-Staple.

WE now come to the laying open a Statute-staple, which
is duplicate, to use the words of *Majeſt, viz.* either
1 Properly so called; or
2 Improperly.

Proper
Improper.

1. A.

1. A *Statute-staple* properly so called, is an Obligation *Statute-* acknowledged before the Major of the Staple, in the *Staple pro-* presence of one or two Constables of the same Staple: *per, what.* And by virtue of such Statute-staple, the Creditor or Recognisee may forthwith have Execution of the body, lands and goods of the Debtor or Recognisor: and this is founded upon the Statute of 27 E.3.c.9.

2. A *Statute-staple* improper, is an Obligation of Record founded upon the Stat. of 23 H. 8. c. 6. of the nature and validity of a *proper Statute-staple*, as touching the form and execution thereof, and acknowledged before one of the chief Justices, and in their absence before the Major of the Staple at *westminster*, and Recorder of London. (You have the forms of all these Obligations or Statutes in *west. part. 1. Symb. L. 2. Sect. 152, 153, 154, 155.*) It is sealed with three seals, *viz.* with the seal of the Conusor, with the seal of the King, and of one of the said Justices, or of the Major and Recorder, 23 H. 8. c.6. And note, that all *Statutes-staple* and Merchant shall be brought to the Clerk of the Recognizance within four months, and inrolled within six months; otherwise such Statute shall be void against Purchasors, &c. 27 Eliz. c.4.

The manner of the proceeds upon it are the same with the *Statute-Merchant*, saving that in a *Statute-staple*, presently after the Certificate into the *Chancery*, the Conussee shall have a Writ to take his body, and extend his lands and goods returnable in *Chancery*: and this Writ is a Commission directed to the Sheriff of the County where the lands and goods lie, for the valuing of the same, whereby all the lands, goods and chattels of the Conusor shall be appraised and valued at a reasonable rate by a Jury of men sworn, charged by the Sheriff for that purpose; which Inquisition so taken, is to be returned by the Sheriff; and thereupon, the lands, goods and chattels are to be taken into the Sheriffs hands, and by him to be delivered to the Conussee (which the Sheriff may do if he will without any Writ) to hold unto the Conussee, till he be satisfied his debt and damages: and if the Sheriff refuse so to do, the Conussee shall have a Writ out of the *Chancery* called a *Liberate*, to compel him to deliver to the Conussee the lands, goods and chattels so found by Inquisition, and taken

27 E.3.c.9.

Statute-
Staple im-
proper,
what.
Or, 27 H 8.
c.6.

west. Symb.
1 L. 2.
Sect. 152,
153, 154,
155.
Note.

27 E.c.4.

The manner
of proceed-
ing upon a
Statute-
Staple.

Liberate.

ken

ken into his hands upon the Extent, which the Sheriff need not return. *Fitz. Accompt* 97. *Execution in toto. Broo. Stat. in toto, Stat. Aſſien. Bernel de Mercat.* 27 E. 3. 9. *F.N.B.* 130, 131, 132. *Dyer* 180. *Co.* 4. 67. *Plow.* 61. 62. 82. *Co. super Lit.* 290. *Co.* 5. 87. &c. See more of the proceeding in *Statute-Merchant*.

Nott.

Co. L. 6.
45. C. 2.
in Higgons
Case.

Pember-
ton &
Barrams
Case. Plow.
32 El. Rot.
235.

It was adjudged in *B. R. Hil. 42. Eliz.* that a Debt recovered in the Kings Court by Judgment, shall be paid before a Bond in nature of a Statute-staple or Merchant; because the Judgment is a matter of a more high and worthy nature then *privateportable pocket-Records*: Also it shall be preferred before a Recognizance acknowledged in any Court by assent, which may also be privately done; and a Judgment so given in the Kings Court, upon ordinary and judicial proceeding, which remain in the custody of a sworn Officer, are Records which are preferred in Law before such Statutes; & *non refert*, whether the Judgment, or Recognizance, or Statute be first; for be the Judgment first or last, it shall be first satisfied, &c. And so it was holden *per totam curiam* in the Common-Pleas in *Pemberton and Barrams Case Plow.* 32 El. Rot 235. which see in the end of *Sadlers Case* in the fourth Report. *Dyer* 80. 53.

Recognizance, what it is.

WE now come to the third, which is *Recognizance*; and that is an Obligation or Bond of Record, acknowledged in a Court of Record, testifying the Recognizor to owe to the Recognizee a certain sum of money, and is acknowledged in some Court of Record, or before some Judge, or other Officer of such Court having authority to take the same; as the Master of the Chancery, the Judges of either Bench, of the Exchequer, Justices of Peace, &c. And those that be meer Recognizances, are not sealed but inrolled; and yet some are sealed with the seal of the party, and may be with condition annexed, or may be single, and then to have Indentures of defeasance.

If the money be not paid at the day, the Conusee proceeds

ceeds upon it after this manner : The Conusee, his Executor or Administrator, he is to bring a *Scire facias* against the Conusor ; or if he be dead, against his heirs, when they be of full age ; or if the Lands the Conusor had at the time of the entring into the Recognizance be sold, against the Purchasers of those Lands, which the Conusor had at any time after the Recognizance entred into, to warn them to come into that Court whence the *Scire facias* cometh, and to shew cause why execution should not be done upon the said Recognizance : And if the party or parties cannot be found to be warned, or being warned do not appear at the time, or appearing shew no cause why the debt should not be levied, then the Conusee shall have execution of a moiety of his Lands by *Elegit* ; or if the Conusor be living, of all his goods by *Levari facias* at his election ; but he cannot have execution of his body, unless he bring an action of debt upon the Recognizance, or it be by course of the Court, as it is in the Kings Bench upon a Bail, in which case a *Capias* doth lie. Dyer 360. 315. *West* 2. 18. *Bras. Execution* 159. Co. 3. 11. 15. H. 7. 16. *Kitab*. 117. And the proceeds against the sureties in Statutes shall be as the proceeding against the principal ; But in case where there are moveables of the principal to satisfy the debt, the Sureties (as it seems) shall not be charged *Stat. de Mercatoribus*.

Execution by vertue or force of a Recognizance shall be of all the goods and chattels of the Reconusor (except the Eeast of the Plough, and implements of Husbandry) and of the moiety of his Lands. *West*. 103.

The Recognisee by the first Writ shall not have execution but of the Land which the Reconusor had at the time of the Land of the Reconusance, or since ; and upon return that he had no Land, then he shall have a Writ to try who had it at the time, &c. or after, &c. 36 E. 2. *Execution* 47. 19 E. 3. 1.

M

Where

Two sued Where two sued Execution, the money was delivered in Execution to one, and the Attorney of the other, *Mich. 14 E. 3. tition, the Execution 76.* and the Defendant in Court did pay the money de- money to one, the other being absent; and it was good, liver'd to and the Recognizance was withdrawn. *Mich. 22 E. 3. 15. the Attor- Execution 87.*
ney of the
 one, and to another himself, good, &c.

The Heir charged, The Heir shall be charged in Debt of the Lands which he had by descent, the day of the Writ brought, and not &c. the day of Judgment. *Mich. 18 E. 2 Execution 241.*
Execution If a man be in Execution upon a Statute, and finds bail, upon Stat. and doth not appear at the day, but at another day the and finds bail brings him in: now it is in the Election of the Plain- bail, and tiff to take Execution of his Body and Land, or to take doth not the Bail. See 59. E. 3. *Execution 43.*
appear at
 the day, &c.

Two sue If two sue Execution, and before the Extent one di- Execution, eth, the Sheriff shall Extend the Land, and shall deliver and one the same to the other. 11 R. 2. *Briefe, 938.* But if two sue dies before Execution of a Statute-Merchant, and the Reconusor is the Extent, returned dead, and then one of the Countess doth ac- yet the knowledge the death of his companion, he shall not have Lands shall Execution without suing a Writ out of *Chancery 25 E. 3. be Extend- Execution 92.*
 ed. 11 R. 2.
Brief. 938. Otherwise upon a Stat. Merch.

3 Bound Where three are bound in a Statute jointly and sever- in a Stat. rally, the Plaintiff shall have Execution against one, or all jointly and of them at his Election, and not against two; and so of severally, an Obligation: But if he bring debt against them all up- be shall, on a joint Bond, the Execution shall be against all; but have Exec. If he bring it by several *Precipe's*, he shall not have Exe- against cution but against one. 34 E. 3. *Execution 129. 14 H. 4. one, or all, 19 Execution 29.*
 but not
 against two, &c.

Note further, that a Recongnizance, though in the special signification it doth but acknowldge a certain debt, and is executed upon all the goods, and half the lands of the Recognizor: yet by extention it is drawn also to the Bonds or Obligations, commonly called *Statute-Meechant*, and *Statute-Staple*; as appeareth by the *Register of Original Writs*, fol. 146. 15., & 152.

Elegit, what.

4 *Elegit* is a Judicial Writ by the Statute, and lieth for him that hath recovered debt or damages against one not able in his goods to satisfie; and directed to the Sheriff, commanding him, that he make delivery of half the parties Lands or Tenements, and all his goods and chattels (Beasts for the Plow excepted) *Old N.B. fol. 152. Register of Original Writs, fol. 299. & 301. and the Table of the Register judicial, which expresseth divers uses of this Writ.*

In *Elegit*, by force of the Statute of *westminster 2.cap. 18.* the Sheriff may take in execution the moiety of the moiety of Lands of the Conusor, and all his goods and chattels (except as before) and may deliver them unto the Conusor, and upon a reasonable price or extent until the debt be satisfied: But the valuation of the goods and lands ought to be first found by the Inquisition of a Jury, *Co. 4.74. and goods and the Sheriff is to deliver him Seisin of them, who is Tenant by Elegit, and shall do no waste.*

westm. 2. c.18. Va-

valuation of the goods and lands must be found by inquisition. Co.4.74.

Upon *Elegit* the Sheriff ought to return the extent, and also that he hath delivered the lands, &c. *12 Edward 3. Scire fac. 117. and the extent shall be good for the sum due, notwithstanding that it be more. 44 Edward 3. 11. Execution 35.*

The Sheriff must return the extent, and that he hath delivered the land, &c.

Term of years delivered in Execution upon Elegit nood, and also Rents. A man sued an *Elegit*, and had a term of years delivered to him in Execution, which the Defendant had in possession as a Chattel, and adjudged good. An Annuity may be extended, and Rents, &c.

The Sheriff must return the moiety distinctly, unless they be Tenants in Common, &c. Brownl. Rep. fol. 38. In every *Elegit* the Sheriff must return and set out the moiety distinctly, unless they be Tenants in Common, and in that case he must return the special matter. An *Elegit* issued out against one *Griesley*, by the name of *Griesley Esq;* who was at the time of suing out the Writ made Knight and Baronet, and it was insufficient, and the Plaintiff prosecuted a new Writ. *Brownlows Rep. 38.*

The Sheriff cannot deliver a Lease at another value than what the Jury had found it. Goods cannot be sold by the owner after the Teste of the Elegit. A Lessee had a Lease to the value of 100 pounds, and after the Teste of the *Elegit*, and before the Sheriff had Executed it, assigns his term to one, who assigns it to the Plaintiff in the *Scire facias*, and afterwards, and before the last assignment, the Sheriff executes the *Elegit*, and delivers the Lease to the Plaintiff, to be holden, &c. for satisfaction of the Debt, which came but to 43 pounds 6 s. 1 d. and it was held by all the Judges, that the Sheriff could not deliver the Lease at another value than what the Jury had found it at; and the sale made by the Sheriff is as strong as if it had been made in the open Market, and that all the Goods and Chattels are bound after the Teste of the *Elegit*, and cannot be sold by the owner after the Teste of the Writ. *Brownlows Rep. 38. Comers versus Brandling.*

An Execution valuable without satisfaction. There are great diversities between an Execution not valuable, (as of the Defendants body) and an Execution valuable, as of Lands, &c. As if two men are bound jointly and severally in an Obligation, and the one is sued, condemned and taken in Execution, and afterwards the other is also sued, condemned and taken in Execution, and then the first escapes, and the other brings his *Audita Querela*; in that cause he shall be barred to bring that Writ, until the Plaintiff be satisfied. So likewise if the

the Defendant in debt die in Execution, yet the Plaintiff may have a new Execution by *Elegit* or *Fieri facias*. But if the Plaintiff have once Execution of the Lands of the Defendant, and after the Lands are evicted, there before the Statute of 23 H. 8. cap. 5. he shall not have any new Execution, for the Execution of the Lands was valuable, and accounted in Law for a satisfaction, and (to avoid infiniteness) he shall have but one valuable satisfaction, or one Execution, with satisfaction at the Common-Law. Co. 5. 86. b. 3. Blumfields Case.

If upon an *Elegit* there be no Execution but upon goods, because there is no land, and the goods appear insufficient, he may have a *Capias*. For note, it is in effect but a *Fieri fac.* though the word be *Elegit*: But if there be Land Extended, then it is otherwise; and yet, *Quere* if the Debt be forty pounds, and nothing extended, but a Lease for three years at five pounds a year, or the like; for then to that which remaineth, the *Elegit* fails. *Hobart Rep. fol. 58.*

Note: where a *Capias* lies after an *Elegit*.

If a Judgment be obtained against a man, who thereupon sells his Land, in whose hands soever the Land is, it shall be liable to satisfy that Judgment; and to that and shall issue out a *Scire facias* against the *Tenants*, if the Debtor die.

Lands sold after Judgment shall be liable to satisfy it.

If two Writs of *Elegit* be delivered to the Sheriff both at one time, the Sheriff is to extend the moiety of all the Lands, and shall give the moiety to the more ancient Debt; and then he ought to extend a moiety of the other moiety, and deliver it to the other; for he cannot deliver a moiety of all the lands to one, and the other moiety to the other. See *Attorneys Academy*, 109.

Two writs of *Elegit* delivered to the Sheriff at one time, how to be Executed.

Several *Elegits* may issue into several Counties where the Land lies.

Several *Elegits* may issue into several Counties.

If a man be bound in a Recognizance to pay money at a certain day; after the year and day past, the Conusee is to sue forth a *Scire facias* against the Recognisor, to shew why the Recognisor should not have Execution: And if

the party be summoned, and appear not; or if he doth appear, & *nihil dicit*, the Conusee may sue forth a Writ of *Elegit* to have execution of all his goods, and of the moiety of his lands: And if the Sheriff returneth upon the *Elegit*, that the Conusor hath made a feoffment of part of the land to divers persons, and that he hath infeoffed the King of the residue; those of which the King is infeoffed are discharged, but a *scire facias* lieth against the other feoffees; and if they cannot plead any thing in Bar of the execution, the Recognizee shall have execution against them of those lands by *Elegit*. *E. N.B. acc.*

In debt upon an Obligation, the Defendant pleaded conditions performed; and being at Issue upon a point certain, the Defendant before tryal, knowing that the Verdict would go against him, conveyed his lands to others, upon condition of payment of 20 *l.* but he himself took the profits of them: the Plaintiff sued forth an *Elegit* to have moiety of the Land in execution; the Sheriff returned, that he and the Jury doubted if the lands should be extended: It was the opinion of the Court, that the lands were extendable upon the *Elegit*. *Mieb. 13 Eliz. Dyer 294. vide Co. 3. part. 78. in Twins case adjudged. 22 Aff. 44.*

Upon a Writ of *Elegit* the Sheriff made his return, that he had delivered to the Plaintiff *bona & catalla defendentis ad valentiam 20 l. per rationabile pretium*; and that he had delivered unto him 20 acres of lands of the Defendants, which is the moiety of all his lands, *per rationabile extentum*; but did not return, that there was an Inquisition taken of it by the oath of twelve men; and for that cause the return was holden insufficient: for the *Elegit* ought to be by Inquisition, for the Sheriff himself cannot extend the lands. *Trin. 1 Ma. Dyer 100.*

In Debt against the Heir upon an Obligation of his Father, who pleaded, that he had nothing by descent, which was found against him, the Plaintiff had an *Elegit* against him, as well of the land which he had by purchase, as of that which descended unto him; but the reason thereof, as it seems, was by reason of his false plea. *21 E. 3. 9. & 10.*

If the Sheriff upon an *Elegit* awarded returned, that the Defendant hath no lands in the same County; upon

a *Testatum* he shall have an *Elegit* into another County. 21 H. 7. 19. 26 H. 8. 7. 20 E. 3. *Fitz. tit. process* 43. But see 18 E. 2 *Fitz. tit. execution* 140. where it is holden, that he shall not have *Elegit* unto another County upon a *Nihil* returned.

A. acknowledged a *Recognizance* of 250 l. unto the Chamberlain of London, and his Successor; and afterwards he acknowledged a *Statute-staple* of 200 l. to B.B. sues execution by a *Liberate*, which is not returned: The Successor of the Chamberlain sues execution by precept to a Serjeant at Mace in the nature of an *Elegit*, and hath the moiety of the lands of A delivered in execution. A. dies: It was resolved in this case, amongst other points: 1. That the execution by the Serjeant at Mace was good, notwithstanding the Stat. of *West. 2. cap. 18.* which is, *Viccomes liberet ei medietatem*; for the Statute extends to every immediate Officer to any Court of Record. 2. That the execution of the *Elegit* was good enough, without suing a *Scire facias* against B. being by matter of Record: but it was said, that if the Sheriff had returned the former execution, he ought to have had a *Scire facias* against B. 35 *Eliz. Cook* 4. part. 64. *Fulwoods case*.

In an action of Debt, the Plaintiff declared of a recovery of costs and damages in a Writ of Entry; the Defendant pleaded in Bar, that the Plaintiff immediately after the judgment took forth an *Elegit*, and delivered the Writ to the Sheriff, who executed the same, by delivery of the moiety of the land to the Plaintiff; but if the Writ was not returned; yet it was holden a good Barr, because the Plaintiff cannot vary from the execution of which he hath made election upon Record. *Pasc. 13. Eliz. Dyer* 299.

Upon an execution upon an *Elegit*, if there be no execution but upon goods, and the goods be not sufficient to satisfy the debt, and there is no land, it was the opinion of *Hobart*, Chief Justice, that the party may have a *Capias* against the Defendant; for now it is in effect but a *Fieri fac.* although the word be *Elegit*; but if the land be extended, it is otherwise. And yet *quære*, if the debt be 40 l. and nothing extended but a Lease for three years, at 5 l. a year for them; as to that which remains, the *Elegit* fails. See *Hob. 58, 59.* in *Foster and Jacksons case*.

The Conufor and the Conufee of a Statute both died, the Executors of the Conufee fued forth execution by *Elegit*; upon which Writ the Sheriff returned the death of the Conufor, and alfo an Inquifition of extent of the lands of the Conufor: but in the Inquifition no eftate was returned, but generally, that the Conufor was feized at the day of the Recognizance acknowledged of the Manor of B. notwithstanding a *Liberati* iffue forth upon that Return, and the Executors accepted of it according to the extent. The doubt was, If the Executors die before any profits received by them of the land upon that extent, if their Executors might have a re-extent upon that insufficient and uncertain return: And it was the opinion of the Juftices, that they might; for the firft extent was void. For the return, that he was feized, might be taken, either of an eftate for life, or in tail; in which cafe, after the death of the Conufor, his land is not extendable: and where the death of the Conufor appears in the return, it ought to be found that he was feized of an eftate in Fee-fimple only, and not of any other eftate. *Pafe. 13 Eliz. Dyer 299.*

A Writ of *Elegit* was fued forth after Judgment; the Writ recited the Judgment, *Quod elegit executionem of the goods, of the moiety of the Lands; and the Writ was, Tibi precipimus quod bona & catalla of the Defendant, Que habuit die judicii prædicti. redditi deliberari facias,* omitting the words, *Et medietatem terrarum & tenementorum,* Tenendum the faid goods, and the moiety of the faid lands, *Quousque debitum levetur.* The Sheriff extended the moiety of the lands and the goods, and delivered the moiety of the land, and returned the Inquifition. It was moved, that the Writ might be amended, being but the mifprifion of the Clerk, and that the extent might ftand. But it was the opinion of the Court, that it fhould not be amended, but he might have a new *Elegit*, becaufe the Inquifition was taken without Warrant. *Mich. 5. Car. in B.R. Walker and Rich. cafe. Cro. 1 part. 116.*

In trefpafs upon a Demurrer, the Cafe was, the Sheriff returned upon an *Elegit*, that the party had not any lands, but only within the liberty of B. and that L.S. there had execution, and return of Writs, who enquired and returned in extent upon Inquifition, and that the Bailiff delivered

livered the moiety of the lands extended to the party, and by vertue of that extent the Plaintiff entered. The first question was, Whether the Bailiff of a Liberty might make Inquisition and extent upon an *Elegit* by warrant from the Sheriff. It was resolved, that he might. 2. When the Jury finds the Seisin of the land, if the Jury ought to set out the moiety for the Plaintiff, or the Bailiff: It was resolved, that the Jury shall extend all the land, and the Bailiff, or Sheriff, where no Franchise is, shall deliver the moiety to the party, and not the Jury. *Hill. 8 Car. in B.R. Sparrow and Matterfords Case. Cro. 1 part. 232.*

Note, That it was resolved by the Court in *Fulwoods Case*, that the execution of the *Liberate* was good, although the Writ was not returned: and so it is upon a *Capias ad satisfaciendum*, and *habere facias possessionem*, and all other Writs where land only is to be delivered, Seisin had, or goods sold, they are good, although the Writs are not returned: But otherwise it is, where an Inquest is to be taken, as in an *Elegit*, and that is to the intent that the Court may judge of the sufficiency of the Inquisition. *Cooke 4 part 65. vide Cooke 4 part 74.*

A recovered 400 l. against E.O. who died; and upon a *Scire facias* the Sheriff returned B. tenant *Omnium terrarum & tenementorum in balliva sua, que fuerunt predicti. E.O. &c.* and Judgment was given, that A. should have execution against the said B. whereupon A. prayed *Elegit*, which was entered upon the Roll, *Elegit sibi liberari medietatem omnium terrarum & tenementorum in Com. S. Tenend, &c. quousque, &c.* but the words *que fuerunt predicti. E.O.* were omitted: And for that the Judgment was reversed, *quoad adjudicationem executionis* upon the *Elegit*; and yet it was holden by the Court, that the Writ it self, and the Return of it, were well in that point: but it was said, where the Roll is faulty, the Writ will not help it. *Mic. 5. Jac. in the Exchequer. Keer and Owens case. Hob. 90.*

If a man doth pray to have an *Elegit* to have the moiety of the Defendants lands in execution, & the Sheriff returned that he had no lands, whereupon he prayed a *Capias* to arrest the party, but the Court would not grant it; but if the Comtee. &c. would tarry till lands did come to the Defendant, or goods, then, &c. But now he could not have a *Capias*, nor a *Fieri fac.* And the causes that the entry in the Roll

No *Capias*
nor *Fieri*
fac. doth
lie after
an *Elegit.*
And why?

Capias ad Satisfaciendum.

Roll is, that he hath chosen his execution of the moiety
Mich. 30. of his Lands, the which he must stand to, because it is an
E. 3. c. 24. execution in the superlative. *Mich. 30 E. 3. c. 24.*

Capias ad Satisfaciendum, what it is.

IT is a Writ (by the Statute) after Judgment, lying where
 a man recovereth in an action personal, as debt, or da-
 mages, or detain; and he against whom the debt is re-
 covered, hath no Lands or Tenements, nor sufficient
 goods, whereof the debt may be levied: In this case, he
 that recovereth shall have this Writ to the Sheriff, com-
 manding him, that he take the body of him against whom
 the debt is recovered, and he shall be imprisoned until sa-
 tisfaction be made to the recoverer. And the Sheriff must
 keep him in *salva & arcta custodia*, unless he intend to
 pay the debt himself: For if a prisoner be taken upon an
 execution, and he shall afterwards let him go at liberty
 before the debt be satisfied, &c. the Creditor may have
 either an Action of Debt, or an Action upon the Case a-
 gainst the Sheriff, and so recover his debt. *Fitz. 93. a. c.*

*Prisoners
 must be
 kept in
 salva & ar-
 cta custo-
 dia.*

*Cap. ad
 satisfac.
 where a
 Capias
 lies in the*

A man shall not have a *Capias ad Satisfaciendum*. but when
Capias lieth in the Original. 11 H. 9. 18. vide Co. 3. part.
 Sir William Herberts case. 8 H. 6. 9. 22 Ed. 4. 22.

*Nothing
 but the
 body can
 be taken
 by this writ.*

Upon this Writ the Sheriff can take nothing but the
 body of the Defendant; for the Writ is to do no more
 but to take his body, and to detain him in prison till he
 hath satisfied the debt, Co. 5. 8.

Co. 5. 8.

*A man in
 the custody
 of the She-
 riff, and
 a second* When a man is in the custody of the Sheriff by process
 of Law, and afterwards another Writ is delivered to him,
 to arrest him who is in the custody, presently he is in his
 custody by force of the second Writ by judgment of Law,
 although he do not actually arrest him; for to what pur-
 pose writ is delivered to him, he shall be in his custody upon it, although not
 actually arrested.

pose

pose shall he arrest him, who is and was before in his custody? *Et lex non precipit inutilia, quia inutilis labor stultus.* And the words of the *Capias ad satisfac.* are not only *quod capiat*, &c. but *quod salvo custodiat*, &c. *Ita quod habeat corpus.* &c. So that although he cannot take him whom he hath in his keeping, yet he may safely keep him: and therewith agreeth 7 H.4. 30.

7 H. 4. 33.

If two men be bound jointly and severally in an Obligation, the one is sued, condemned, and taken in Execution, yet the other may go scot-free; for he may be likewise sued and taken in execution, until the Plaintiff be satisfied of his entire debt, Co. 5. 86. But if the Creditor be satisfied by the first that was in execution, the other may plead this satisfaction, and be discharged. 29 H. 8. tit. Execut. b. 132.

Two bound in an Obligation jointly and severally, both may be sued and taken in execution, &c.

A woman recovering damages in a Writ of Dower, she cannot have execution of these damages recovered by a *Capias ad satisfaciendum*, because the *Capias* was not in the Original. 11 H.7. fol. 5. 2 H.7. fol. 7.

No *Capias* ad satisf. for damages in a Writ of Dower. No return required upon a *Capias* ad satisf.

If a man be condemned in an Action of Debt, and the Sheriff hath him in execution, by a *Capias ad satisfac.* by arresting him, although the Sheriff do not return the Writ an action of false Imprisonment is not to be brought against the Sheriff for not making return of the Writ; for the Writ of *Capias ad satisfac.* is not as other *Capias*, that is, *So that you have his body before*, &c. For in every *Capias ad satisfac.* the judgment is given before, and it is but to take execution of the party, in which no answer nor return availeth. Pasch. 21 H.7. fo. 13.

If one be in execution by his body, and the party doth release unto him all Actions, Suits and Debts, he shall not have an *Elegit*, nor a *Capias*, because the duty is extinct. 26 H.6. Execution 7.

If a Defendant hath a *Superfedeas*, *Quia erronee emanavit*, and gives it to the Sheriff after arrest, the Sheriff must discharge the Defendant: But if the *Superfedeas* be grounded upon a Writ of Error, it cannot discharge the Defendant; for the words of that Writ are, *Si executio non fiat.* Hob. 329. 34 H. 6. 18. & 45. 19 H.6. 8. 6 H. 7. 17. 19 H.6. 43. 34 H.6. 18.

*Capias pro Fine, Capias Utlagatum, Capias
ad Valentiam.*

There are three other Writs of *Capias* after Judgment
viz.

- 1 *Capias pro Fine.*
- 2 *Capias Utlagatum.*
- 3 *Capias ad Valentiam.*

*Cap. pro
Fine,
what it is.*

1 The *Capias pro fine* is, where one being fined by judgment unto the King, upon some offence committed against a Statute, doth not discharge it, according to the judgment: by this is his body taken, and imprisoned till he pay the Fine. *F.N.B. 76. Co. 11.41.8.60.*

*An Elegit
sued after
one is tak'n
for the
Kings fine,
he shall go at large.*

If the Plaintiff sue an *Elegit* after the Defendant is taken for the Kings Fine, he shall go at large, for such Execution doth discharge the body. 7 H.6.6. and 7. So if he sue by *Fieri facias* 18 E.3. Execution 54. Yet upon Nihil returned, he may have a *Capias*, &c.

*One taken
upon a
Cap. &c.
in Trespass,
&c.
47 E.3.
Extc.41.
Cap. Ucla-
gat.
what it is.*

If the Defendant be taken upon a *Capias pro Fine*, in Trespass, and the Plaintiff prays that he may remain in Prison for his Execution, the Plaintiff not satisfied shall have an Execution afterwards. So if one pray an *Elegit* of Lands, and nothing is returned but a *Renr*, he shall have an *Elegit* of the same. 47 E.3. Execution 41. See *Extc.41. F.N.B. 246.& Stat.32 Hen.8.cap.5.*

2 *Cap. utlag.* is a Writ of *Extc.* (after Judgment of the Coroner of the County, into which the Exigent and Proclamation issued) which lieth against him that is outlawed, by the which the Sheriff upon the receipt thereof apprehendeth the party Out-lawed for not appearing upon the *Exigent*, and keepeth him in *salva custodia* (*viz*) in safe custody.

If

If a *Capias utlagatum* issueth to the Sheriff to take a purrey, and to enquire what Lands and Tenements he had and the Sheriff finds by inquisition that he is seized of many Lands, and continues Possession in them, and the Sheriff do' out me, I may have an Action of Trespass against him. *Winch. fol. 78.*

Capias utlagatum & inquiras de bonis & catallis, Is a *Cap. utlag.* Writ of the same nature with the precedent, but that it & inquiras de bonis & catallis. *Minsh. fo. 111. b.*

what it is.

Capias ad Valentiam, is a Writ of Execution, and lieth where the Tenant is impleaded of certain Lands, and he voucheth to warranty another, against whom the summons *ad warrantizandum* hath been awarded, and the Vouchee cometh not in at the day given; Then if the Demandant recover against the Tenant, he shall have this Writ against the Vouchee, and shall recover so much in value of the Vouchers Lands, if he have so much; And if he have not so much, then the Tenant shall have Execution by this Writ of so much Lands and Tenements as descend to him in Fee-simple; or if he purchase afterwards, the Tenant shall have against him a *Re-summons*; and if he can say nothing, he shall recover the value. *Old Natura Brevium, fol. 161, 162. Terms of the Law. 45, 46*

Cap. ad Valen. what it is.

Fieri facias, what it is.

A *Fieri facias* is a judicial Writ, and lieth for him that hath recovered debt or damage, directed to the Sheriff, commanding him to levy the Debt or damages of the Defendants goods; it must be brought within the year and day. This Writ hath beginning from *vestm. 2. cap. 18. Anna 13 E. 1. Old. Nat. Br. fol. 130. See great vestm. 2. diversity thereof in the Table of the Register Judicial. Ver. c. 18. 13.*
Fieri facias.

E. 1.

The

The Sheriff
must be
cautious
in execu-
ting this
Writ, &c.

Dalt. office
of Sheriffs,
fol. 60.

The Sheriff or Bailiff ought to be very cautious in executing this Writ; for if the goods, or Lease which shall be taken be the goods of a stranger, though they be found in the possession of the Defendant, yet if it be found upon Tryal, that the Defendant hath no property in those goods or chattels, then the Sheriff or Bailiff that executed that Writ, shall be a Trespasser to the right owner of the goods, and shall recover damage to the value of the goods so taken, with costs of Suit, although the Officer hath delivered them to the Plaintiff in execution. Dalton Office of Sheriffs, fol. 60. Therefore the safest course for the Sheriff or Bailiff is, not to take any goods in execution, unless they plainly appear to them to be the proper goods of the Defendant; for the Officer is bound at his peril to take knowledge whose goods they be. *Ibidem*.

If a *Fieri fac.* be awarded for twenty pounds to the Sheriff, upon which he takes an entire Chattel, and sells it for forty pounds, and returns the *Fieri facias* with the twenty pounds in Court, he may detain the surplusage until the Defendant comes to demand it of him, for he is not obliged to search out the Defendant; But if a *Fieri fac.* be awarded for 40 s. by force of which the Sheriff takes five Oxen, every one at the value of Five Pounds, and sells them all, the Defendant may have an Action of Trespass against the Sheriff. *Noy fol. 59. Woodby against Coles, &c.*

Sale upon
a Fieri
fac. shall
stand,
though

Sale by the Sheriff upon a *Fieri fac.* shall stand, albeit the Judgment afterwards was reversed, and the Plaintiff in it restored to the value. *Dyer 363. 24. Co. 8. 76. b. Mat. Mannings Case.*

Judgment be afterward reversed

upon a
Judgment
against an
Exec. or
Admini-
stra. no
Cap. ad
Satis-
fac. lies,

Upon a Judgment against an Executor or Administrator, the Plaintiff cannot have a *Capias ad Satisfaciendum* against the body, but a *Fieri facias de bonis Testatoris*; and if the Sheriff return a *Devastavit*, then a *Capias ad Satisfaciendum* against the body, or a *Fieri facias de bonis propriis*. And if there be two Executors, and the Sheriff returns a *Devastavit* against one of them, and he dies, the other *Fi. fa. &c.* But if a *Devast.* be returned, then a *Cap. ad Satisf.* or a *Fi. fac. de bonis propriis, &c.* ther

ther shall not be charged for that *Devastavit*; for the one shall not prejudice the other; but a gift by one of them is good against the other.

A *Scire facias* after the year for damages recovered in waste, and a *Nihil* returned, he shall not have an *Elegit*, until the Tenants be warned; but he may have a *Fieri fac.* without warning of them, 4 E. 3. 23. Execution 99. Old. N.B. 168.

The Sheriff returned upon a *Fieri fac. mandavi Ballivo*, who said that he had seized to the value, but he could not find buyers; and because the Court cannot send to the Sheriff to have the money here, as they might upon his own return, therefore they awarded a Writ to the Sheriff to levy the money of the Lands and Goods of the Bailiff, to the value of that which he had seized: The same Law is upon a seizure of an ancient Sheriff; E. 3. Execution 101.

money upon the Goods and Lands of the Bailiff. 5 E. 3. Ex. 101.

Fieri fac. for damages recovered in waste upon a Lease for years, it was returned, that the Lessee had no Goods, but the remnant of the same Lease; and it was holden, that by *Sicut alias*, the Sheriff might sell the Lease, as well as the Pots and Pans in Execution; for the *Fieri facias* is de *terris & catallis*, of the Lands and Chattels, &c. 19. E. 3. Execution 148.

A *Fieri fac.* to the Sheriff to levy the expences of the Knights of the Parliament, the Sheriff may sell the Beasts of one of the Hundred for the whole, or the Beasts of any person he shall find within the Precinct. 11 H. 4. 2. *Avowary* 52.

The Sheriff returned upon a *Fieri fac.* that he had levied the money, and that he had the same in Court, whereas he had not the money at the day: and then a new Sheriff is chosen; and because it was upon Record, that the old Sheriff had levied the money, a *Scire fac.* issued forth against him to pay it; and if he cannot, or will not otherwise discharge and pay the money, the party shall have a *Fieri fac.* or an *Elegit* against the Sheriff of his proper goods, &c. 9 E. 4. 50. *Scire fac.* 2.

A *Scire fac.* issued out against an old Sheriff (after a new new elected) for money levied by him, &c. 9 E. 4. 50. *Mich. Scire fac.*

After *Sci-*
re fac. no
Elegit lies
until the
Tenant be
warned,
but a *Fi.*
fac. doth.
Goods ta-
ken upon a
Fi. fa. and
no buyers
found, an
Order to
levy the

If no Goods
be found,
the Sheriff
may sell a
Lease for
years, &c.
19 E. 3.
Ex. 148.

Bond taken by the Sheriff not within the Stat. of 23 H. 6. c. 10. 19 H. 6. 43. Co. 10. 99. b. 3. in Beaufages case. Mich. 10. Jac. Upon a motion at the Bar, it was resolved, that an Obligation to the Sheriff upon a *Fieri facias* for the payment of the money in Court, was not void by the Statute of 23 H. 6. cap. 10. For the first branch of that Statute is, that he shall let to Bail by Writ or Bill, &c. which he could not do before; as appears, 19 H. 6. 43. The second shews the form of the Bond, &c. The third contains a penalty, that if the Sheriff take an Obligation in any other form, &c. than is there prescribed, that it shall be void: So that upon consideration of all the branches together, and upon their coherence and dependance one upon another, it plainly appears, that the said Statute doth extend only to Obligations of such as are within their guard and custody, and not otherwise.

where the Sheriff justified the breaking of three doors, &c. as do execution, &c. Trespass brought for breaking his house, and breaking three doors, and breaking and carrying away three locks of those doors: The Defendant justifies the entry into the house by virtue of a *Fieri facias* awarded against the Plaintiff, directed to the Sheriff; and he being Under-sheriff, and the other Defendants his Bailiffs, two of the Defendants entered into the house, and the door being open, took the goods, and the Plaintiff shut the doors upon the Bailiffs, and imprisoned them for two hours; wherefore he broke open the doors, and the locks, to rescue his Bailiffs, *Que est eadem transgressio*: And it was thereupon demurred; and all the Court held, that although a Sheriff cannot break open an house being to take execution by a *Fieri fac.* yet when the door is open, that he enters, and be disturbed in his execution by the parties who are within the house, he may break the house to rescue his Bailiffs, and to take execution; so it was adjudged for the Defendants. And in regard this restraining of the execution, and detaining of the Bailiffs, was confessed by the Demurrer, an Attachment for the good Behaviour was awarded against the Plaintiff. *Crooke's second part, fol. 555. and 556.*

The Sheriff may sell a Lease for years, &c. without taking Inquisition of them. Co. 5. 90. 4. 74. If the Sheriff take Leases for years, or other chattels real upon an execution, he may seize and sell them without taking inquest by a Jury of them, and the sale will be good. *Co. 5. 90. 4. 74.* And no return is required upon a *Fieri facias*, if execution be done; which is grounded upon four strenuous and solid reasons, be *Co.* in his 5 Reports, in *Hors case.* Note

Note, It was resolved by the Court, that if a *Fieri fac.* cometh to the Sheriff to levy money upon the goods of a man, and the Sheriff by writing recite, that he had a term for years which began 2 *Ma.* whereas in truth the term began 3 *Ma.* sell the same term the sale is void, for that there is not any such term: But if the Sheriff sell also all the interest which the party had in the Land, the sale is good. 26 *Eliz.* Sir George Sydenhams case adjudged. But in the principal case, afterwards upon looking into the Record, it was found, that the Execution was not by *Fieri fac.* but by *Elegit*, which ought to be made by Inquisition *per Sacramentum* 12. and not by the Sheriff: And because the term was mis-recited in the Inquisition, and the Sheriff cannot sell any term but that only which was apprized by the Jurors of the Inquest; for this cause it was the opinion of the whole Court, that the sale of the term in the principal case was void, and Judgment given accordingly. *Hill. 39 Eliz.* in *B.R. Cook* 4. *part. 74. Palmers Case.*

1. Because the levying of the Debt is lawful, and well done, and the party Defendant cannot resist the Sheriff to levy money. Four reasons why no return is required upon a Fieri fac.

2. The effect of the authority the Sheriff hath, by force of the *Fieri facias*, is executed.

3. The great prejudice that the Defendant (whose goods are sold by the Writ, and Process of Law for the satisfaction of the Debt) should have, if the Sheriffs not returning of the Writ should cause a new Execution to be sued forth against him, and leave the Defendant to his Action against the Sheriff.

4. If the sale of the goods by force of the Writ, shall be for not returning the Writ wrongfully, then the Sheriff will not find Buyers of the Defendants Goods, by force of any Writ of Execution; which would be very inconvenient, and great delay of Executions, which are the fruit and life of every Sult: and where the words of the Writ of *Fieri facias* are, *Et quod habeas denarios, &c.* they are but words of command to the Sheriff to make return; which if he do not, he shall be amerced, but the Execution shall stand in force.

Levari Facias, what it is.

WE come to the seventh, which is a *Levari facias*; and it is only to be levied upon the profits of the Lands and Tenements, and upon the goods of him that hath forfeited a Recognizance, &c. *Register Orig. fol. 298. b. 300. b.* but he cannot seize the Land, and deliver that to the party by this Writ, *Plow. 441.* and this ought to be sued within the year after the day of the payment to be made by the Recognizance, or after the Judgment; for after the year, the Conusee or Plaintiff is now by the Stat. of *Westm. 2. cap. 45.* to have a *Scire facias*, whereby the Sheriff is commanded, that he give knowledge to the Defendant, that he appear at a day certain in the Chancery, there to shew what he can say, why he should not pay the debt or damages; and if he come not at the day, or do come and can say nothing why Execution ought not to be done, then the Sheriff shall be commanded to do Execution, *Fitz. 266. c.*

And if the Sheriff upon this return Writ that he hath levied part of the sum, *viz. sixteen pounds* part thereof, which he hath delivered to the party; now upon this return, the party which ought to have the money, may have a *Sicut alias Levari facias*, directed to the Sheriff to levy the residue of the sum. *Fitz. 265. b.*

Part of the sum levied a Sicut alias Levari facias may issue out for the residue. Fitz. 265. b.

of

Of Habere facias seisinam, and Habere facias possessionem.

There are other Writts of execution, which are necessary to be treated of, viz.

- 1 Habere facias seisinam, and
- 2 Habere facias Possessionem.

Which Executions are for recovery of land in a real Action; as *Cap. ad sat. Fieri fac.* and *Elegit*; are for recovery of debt or damages in a personal Action. *Co. 6. 51. F.N.B. 265. west. 2. Co. 6. 51. c. 18.*

And first of the *Habere facias seisinam*, which is a Judicial Writ, and lieth where one hath recovered certain lands in the Kings Court, directed to the Sheriff, commanding him to put him in actual Seisin of that land; which is done by delivering a bough of a tree, or by a clod of the same land in the name of seisin, &c. and if the recovery be of a house, then the Sheriff may put him in seisin, by delivering unto him the ring of a door; or otherwise he may open the door, saying to him, *Enter into the house, and take seisin thereof by vertue and force of the recovery.* *Perk. Sect. 206, 207, 208. F.N.B. 220.*

2. It is a Writ judicial, and lieth where one was evicted from his farm, and hath recovered it by *Ejectione firme*, or *quare ejecit infra terminum*: it is directed to the Sheriff, to command him to put the Plaintiff in actual possession of the term again. The Sheriff in executing both these two Writts may break the house, and deliver seisin and possession thereof to the Plaintiff. But he cannot justify the breaking a mans house, to execute a *Cap. ad satisfac.* or *Fieri fac.* But where the King is a party, there the Sheriff may justify the breaking of the house to execute his process, if they cannot be executed otherwise: yet he must first request the opening of the door, and withal signifie the cause of his coming. *F.N.B. 220, 221. Co. 5. 91. 6. 51. Dyer 278.*

Some select Cases which have not been yet published in any Treatise of this nature, &c. concerning Returns of Writs, where valid and good, and where insufficient.

Return
hath a
threefold
acceptation
and how.

THis word *Return* hath a triple acceptation. First, as it is applied to the case of a *Replevin*, and there it is called *Returno habendo*. Secondly, it is applied to the dales of appearance in every Term. And thirdly, it is applied to the Sheriffs or Bailiffs, and it is that which we are determined to handle: And it is a Certificate made by the Sheriff or Bailiff to the Court from whence the Writ issued. They ought to be very diligent in making true, certain, and perfect Returns, subscribing their names to them; for if they make a false Return, the party endamaged thereby may have an Action of the Case against him that made such Return. See *Co. 5. 90. 11. 40. and 4. 67.*

In *Mich. term 8. Jac.* The words of a Return were these, viz. *Virtute istius brevis mihi directi, cepi corpus E. M. infra nominati, cujus quidam corpus coram Dom. Reg. ad diem & locum infra contenta paratum habeo, prout interius mihi precipitur.* And at the end of the Return was set *Respons. S. H.* which *S. H.* at the time of the Return, was not then Officer to the Court, nor to the King, and so disabled to make a Return; and therefore the Return insufficient. The Writ was directed to the Sheriff, and so ought the Return to have been by the Sheriff; for none can make a Return of a Writ, but such a person, who at the time of the Return remained an Officer to the Court. If the old Sheriff be removed before the day of the Return, the new Sheriff is to make the Return: and to this purpose is the book of 22 E. 4. fol. 33; and 34. in the Case of a Writ of Error to reverse a false Judgment given before the Mayor and Sheriffs in the Court at *Coventry*: and *Co. 3. fol. 72. Westbites Case*; where it is resolved, that after the election of a new Sheriff, and before delivery over of the prisoners to him, they do remain in the custody of the old Sheriff; and after the delivery

Return of a
viz. *Virtute istius brevis mihi directi, cepi corpus E. M. infra nominati, cujus quidam corpus coram Dom. Reg. ad diem & locum infra contenta paratum habeo, prout interius mihi precipitur.* And at the end of the Return was set *Respons. S. H.* which *S. H.* at the time of the Return, was not then Officer to the Court, nor to the King, and so disabled to make a Return; and therefore the Return insufficient. The Writ was directed to the Sheriff, and so ought the Return to have been by the Sheriff; for none can make a Return of a Writ, but such a person, who at the time of the Return remained an Officer to the Court. If the old Sheriff be removed before the day of the Return, the new Sheriff is to make the Return: and to this purpose is the book of 22 E. 4. fol. 33; and 34. in the Case of a Writ of Error to reverse a false Judgment given before the Mayor and Sheriffs in the Court at *Coventry*: and *Co. 3. fol. 72. Westbites Case*; where it is resolved, that after the election of a new Sheriff, and before delivery over of the prisoners to him, they do remain in the custody of the old Sheriff; and after the delivery

Return of a
one, and a
Non est
Inventus
for others,
by one that
was not
Sheriff.
Bulstrods
Rep. first
part. fol. 70
Egerton
against
Morgan,
and others.
Co. 3. 27.
Westbites
Case.

delivery of them over to the new Sheriff, he at the day of the Return, ought to return *Cepi corpus*: but in this case the return by the new Sheriff before any delivery over of the prisoners to him by the old Sheriff, is no return at all in Law. And the old Sheriff can now make no return, he being no Officer at all to the Court, but the new Sheriff is the Officer to the Court, and ought to make his answer unto the Kings Writ to him directed; & he doth not here return a *Cepi corpus*, but only an Indorsment in this manner, setting his hand also to the Return, with this Postscript, viz. *Isud breve, prout superius indorsatur, ego modo Vicecom. recepi de A.B. nuper Vicecom. Com. mei, in exitu ab officio suo*; and this upon the matter is no return at all. Here the new Sheriff hath made a return, but the same is not good, being but parcel of that which he ought to have returned. For as to the other two, his return is, *They are not to be found within my Bailiwick*; This Return is not good; for he ought to have said, that those two, nor either of them were to be found. And it is said that the old Sheriff put his hand to the Writ; he was at that time out of his Office, and so he was no Officer of the Court; and so it is in effect, as if he had not put his hand at all to the Return; and so the Return being as no Return in Law, is meerly void.

An Indorsment of Writs as was received by the new Sheriff from the old Sheriff.

Upon a *Elegit*, the Sheriff returned that to be executed, and the extent of the Church of St. Andrews, alias, St. Edes; and it was prayed, that the Sheriff might amend it, and make it *Andrews* only, for that was the true name; and the Court said that the *alias dictus* is surplusage, and will not hurt the return of the Writ. *Winch. Rep. fol. 27.*

Surplusage no hurt to the return of a writ. Winch.

A Writ of Proclamation upon the Exigent was returned by the Sheriff out of Office at the time; upon which the Outlawry was adjudged void. *Stat. 6 H. 8. Dyer 103.*

Repor. f. 27. A Proclamation upon Exigent returned

by a Sheriff out of office, void.

To return *Rescous* upon a *Latitat* is no good return; for the Sheriff might have had a *Posse Comitatus*, as well for the serving the same Process as an Execution. *10 H. 6. 26. 33 H. 6. 1. 13 E. 4. 3. F. N. B. 102. Dyer 162.*

Rescous upon a Latit, no good return.

Return by
one Sheriff
where
there are
two, no
good return
Cep. corp.
returned
upon a
Cap. ad
sat. and
hath not
the body at
the day, an
escape, &c.
Br. Ret. 107
In all writs
of Executi-
on (except
an Elegit)
no return is
required.
But an E-
legit must
be returned.
Co. 4. 67.
5. 90.
To say that
the party
will not
pay his
Fees, no
Return.
For the
Sheriff to
say that his
Baillif will
make no
deliverance
no good
return.

If a Writ be directed to a place where there are two Sheriffs, as London, York, &c. and one of them doth return the Writ, it is insufficient: For though one (according to custom) doth execute it, yet it must be returned in both their names. 21 Aff. 20. Br. Offic-
good return car 22.

If the Sheriff upon a *Capias ad satisfaciendum* returneth a *Cepi corpus*, and hath not the body at the day, &c. he is chargeable for an escape. Or if upon a *Fieri facias*, he returneth a *Fieri feci*, and hath not the money at the day, &c. he is chargeable with the money. Br. Ret. 107. Yet in all Writs of execution, (except an *Elegit*) as upon a *Cap. ad satisfac. Habere facias seisinam vel possessionem, Fieri fac. Liberate*, &c. If the execution be duly done, although the Writ never be returned or filed, it much matters not, if the Plaintiff have his demand; for then he hath no cause of further proceeds in it. But in case of an *Elegit*, because the extent is to be made by an Enquest, and not by the Sheriff alone, that ought to be returned, otherwise it is invalid. Co. 4. 67. and 5. 90. But where no Enquest is to be taken, but only land to be delivered, or seisin had, or goods to be sold, which are but matters in fact, these are sufficient, although the Writ be not returned. Co. 4. 67 a.

It is no good Return for the Sheriff to say, that the party will not pay his Fees; *ergo*, he did not execute the Writ, 34 H. 6. Br. Rot. 10.

All Sheriffs and Bailiffs who have return of Writs, ought to set both their names of baptism and surnames to their returns. *Pl. 63. a.* so that the Court may know of whom they received such returns, if necessity require: And this is by force of the Stat. of 12 E. 2. cap. 5. Yet by the Stat. 18 Eliz. cap. 13. imperfect or insufficient returns of Sheriffs are corrigible.

Upon a *Replevin*, the Sheriff returns, *I have commanded the Bailiff of the Liberty, &c. who will make no deliverance*, &c. these are no good returns; for the Sheriff himself ought to have entered the Franchise, and to have made deliverance of the cattle, &c. Fitz. 68. f.

He shall be amerced for the default of his under-Sheriff, He shall County-Clerk, or Bailiff. 28 Aff. p. 13. By 77. 1 R. 3. c. 4. not be But by the Stat. of 27 H. 8. c. 24. amerciaments for in- charged sufficient returns of Writs made by Bailiffs of Liberties; for insuffi- shall be imposed upon such Bailiffs, and not upon the cient re- turns by Sheriffs.

Tu brought an Action of the Case against R.G. Clerk Bailiffs of in the Kings-Bench, for calling him perjured Fellow, and Liberties. had Judgment by *nisi dicit*; and thereupon had a Writ of enquiry of damages to the Sheriff of Norfolk thus: 13 Jac. & *Præceptum est vic. quod per sacram. nram duodecim proborum & J. 12 Jac. lega'um hominum de balliva sua diligenter inq' irat quæ dam- Ret. 252. na, &c.* Whereupon the Sheriff returned, *Quod manda- vit I.G. ballivo libertatis Rad. Hare mil. Hundredi de Black- close, cui exigit. præd. brev. totaliter restat. si nda, & quod alibi infra Com. præd. per se fieri non potuit. Qui quidem Ballivus sic sibi respondit.* And so sets down an Inquisition before the Bailiff, and 40 l. damages. Hereupon a Writ of Error was brought in the Exchequer-Chamber, and agreed by all the Judges, that the return was insufficient, for it was apparently untrue, and against Law, because the Writ was directed to the Sheriff himself to be execu- ted in any part of his Shire, and no venue contained in this Inquest of Office, as there is in other Writs which entitles the Bailiffs of Liberties: But yet the Court would not reverse the Judgment, because there are divers of the like in the Kings-Bench and Common-Pleas, especial- ly in Suffolk and Norfolk in later times. *Hobart rep. fol. 83. Virely vers. Gunston.*

Every return ought to answer the Writ (*ad punctum*) Every re- and therefore where the Writ was, *that you make known turn must to the Heirs of the Lands and Tenements which were of A. exactly an- &c.* And the Sheriff returned, *that he made known to B. swer the Esquire, Son and Heir of the said A. &c.* which was not writ. good, and assigned for Error, &c. because he did not re- turn him Heir of any Lands or Tenements, as the Writ *Co. 3. 15.* required; for his Writ was not to summon the Heir of Sometimes the said A. but the Heir of the Lands and Tenements of the omis- sion of words the said A. *Co. 3. 15.*

Usually the omission of words make the return invalid; make the as where the return was, *The residue of this Writ appears return in- a certain Schedule, &c.* For, the residue of the Execution valid.

19 H. 6.
Fitz. ret.
14. 3 H. 7.
11. a. Br.
ret. 88.
34 H. 6.
49. Br. ret.
14. Co. 8.
127, 128.

of this writ, this is insufficient and vicious. 19 H. 6. Fitz. Ret. 14. For by 3 H. 7. 11. a. Brook. Ret. 88. the return of the Sheriff ought to be certain to every intent, and he is obliged to take knowledge of the Law in making his return: And therefore in a *Scire facias* to L.B. Master of the Free Grammar-school of Skipton, &c. and to the Scholars of the same, &c. he returned, *That he made known to the Master, &c. And did not say, That he made known to L.B. Master, &c. and likewise he omitted Scholars*; which return was insufficient and void. See Co. 8. 127, 128.

10 E. 4. 15. The Sheriff upon a *Capias* returned, that he Arrested the Defendant at S. and would have carried him to the Gaol, and that A.B. rescued him: which return was holden invalid, because he did not shew at what place A.B. made the rescue; for it shall not be intended the place where the Arrest was.

Note: It was holden by the Court, that the return of the Sheriff of a Rescous made to his Bally Errant by these words, viz. *Virtute istius brevis, &c. mandavi Ballivo meo itineranti, &c. qui mihi sic respondit, quod arrestavit. &c.* and shewed the certain day, year and place, &c. and that Rescous was made, was no good return, because the Arrest is the proper Arrest of the Sheriff himself, and no credit to be given to the saying or answer of the Bally Errant; otherwise it is of a Bally of a Franchise: And in the principal case it was holden that if it be upon a *Capias ad satisfaciendum*, or upon a *Capias utlagatum* after judgment the Sheriff himself shall be charged with an escape, except it be by the Kings enemies. Trin. 7 Eliz. Dyer 241. See more largely in the French above.

The Sheriff of a County made a Warrant *Ballivis suis*, to Arrest the body of such a man, and the Bailiffs of the Liberty returned a Rescous; Exception was taken to it, because it was *Ballivis suis*, and the return was made by those who were not his Bailiffs: but it was adjudged that the return was good, for that the Liberty might be within his Billiwick. Pasch. 15 Car. in B.R. Marsh. 25.

Where return of Rescous made by Rebels, Enemies, &c. 7 El. Dyer 241. 33 H. 6. 1.

By

By the opinion of *Jennis*, 2 E.4. If a Writ be returned *No good* thus, *The answer of the Sheriff of C.* and sheweth not the return the Sheriffs name, it is no good return, 9 E.4.19.Br.54. And where the by this 11 H.7.10. a.b. the name of the County ought to Sheriffs be entered in the margin, or over the head of the return. name is

Inia Soñe fac. the Sheriff returneth, *I have made known wanting* to A.B. in manner and form as this writ exacteth and requires; 9 E.4.19. and said not, To the within-named A.B. &c. and yet this Br.54. 11. was holden (*per curiam*) to be good: for note, these H.7.10. words, as this writ exacteth, &c. do amount to the within a.b. named, or the within-mentioned, or written. See 2 H.4.13. and 3 H.4.9. Br.28.Fitz.44.

Habere facias seisinam, upon a grant and render, at the Place: the Sheriff did return *mandavi ballivo*, who did nothing, because the parties to the Fine had nothing, and the Writ of Covenant was not sued in the Liberty, nor came to him to be executed, upon which a *Non omittas* was awarded. 8 E.3.12. Upon the like Writ the Sheriff 8 E.3. 12 returned, that he could do nothing by reason of the resistance of A.B. and others; and he was amerced twenty 2. Executi- Marks, because he did not take *posse Comitatus*, and an *Alias* on 147. awarded, and also a Writ to attach A.B. who was taken, and pleaded not guilty, and prayed a Writ against the Sheriff to answer his false return. Hill. 19 E.2. Execution 147.

Waste was assigned in *W.* the return must not be, That he came unto W. but, that he came to the place wasted. 27 H.8. Br. 2. *What re- turn upon Waste good and what is not.*

The Sheriff returned, That by vertue of a Precept, &c. he took the body of A.B. &c. and exception was taken, because the return was not, by vertue of a writ, &c. yet it was holden to be a sufficient return; for the Sheriff may take one in *westminster-Hall* by the mandate of the Justices without any Writ. *Return of a precept for writ, not good.*

The Sheriff returned, I have not found the party, &c. for, *No good he is not to be found*; and the party thereupon outlawed, assigned this for Error, and not to be amended. Fitz. 19. Fitz. 19.

The Sheriff returned, that he hath commanded the Bailiff of *Slaincliff*, in the third person; for, I have commanded by the Sheriff in the Bailiff, &c. in the first person, and was amerced for it. 21 Ass. 17. *A return by the Sheriff in the 3 person, no good return*

Habeas

Return amended.

Habeas Corpus was returned, Barthol. miles vic. & Michael, which was the Sheriff's surname omitted, and it was amended by rule. *Hob. rep. Kent. vers. Hall* fo. 113.

False Imprisonment

If a Sheriff do not return a *Capias* in process, the Arrest is tortious, and an Action of false Imprisonment lieth against him by him that was Arrested; and likewise the Plaintiff shall have an Action against him *Litleton* 18 E. 4. 9. *Br. Trespass* 339. *Br. false Imprisonment*, 5. 7. & 12. But if a *Capias ad satisfac.* be not returned, it is sufficient, if the Execution be duly executed, and the Plaintiff satisfied: yet if he levy the money or debt, but neither returneth the Writ, nor payeth the money to the Plaintiff, he is chargeable to the Plaintiff in an Action of accompt, &c. and to the Defendant in an Action of Trespass. *Co.* 5. 90. and the Plaintiff may have his Execution renewed against the Defendant, and the Defendant is left to his Action against the Sheriff.

But otherwise in a Cap ad sat. &c.

Co. 5. 90.

Where a man hath liberty to return Writs, (as in the Honour of *Pontefract* in *York-shire*, &c.) and to execute them, &c. if there the Sheriff, or his Officer, shall enter the Liberty, and execute any Process there, the Lord of the Liberty shall have an Action of the Case against him. *Fitz. Na. Br.* 95. b.

In a Scire fac. &c.

the Sheriff

must return

the names of the Summoners, &c.

In a *Scire facias* to execute a Judgment or Fine, the Sheriff must return the names of the Summoners. 3 H. 7. 8. *Br. Ret.* 86.

Upon the return of a Jury,

he is to return issues upon

every person impannelled, and returned by him, Ibidem.

The Sheriff

may take

Posse comitatus upon a

Replevin.

Upon a *Replevin* the Sheriff returned, that the Cattle were in such a strong place, that he could not make deliverance; for which return he was amerced, because he might have taken *Posse comitatus*, and so made deliverance, *Br.* 119. or if he should return a resistance, the like 13 E. 3. c. 39.

A Scire facias against

a husband

In a *Scire fac.* against the Husband and Wife, the Sheriff returneth that they are divorced, and therefore amerced

and his wife, to say they are divorced, no good return.

ced;

ced; for persons that are divorced may have garnishment, *quart.* & *vidi* 1 H.6.2. Br.63.

Upon a *Fieri fac.* against Executors, the Sheriff returneth, that they had sold the goods of the party deceased before the Writ purchased, &c. for which he was amerced; for he should have taken other goods of the Executors, to the value thereof, &c. 14 H.4.12. Br.41.

A Fi. fa.
against
execution
no good re-
turn, to say
the goods
were sold, before the writ purchased.

Upon a *Fieri fac.* against Executors, the Sheriff returneth *nulla bona*, &c. and upon this return an Entry was made in the Roll, because that *testatum est*, that the Executors had sold divers goods of the Testator, and converted the money to their own use; a Writ was awarded to the Sheriff, to enquire by the oaths of good men of his Bailiwick what goods (which were the Testators the day of his death) were wasted by the Executors: by force of which Writ the Sheriff had an Inquisition, by which it was found, that divers goods of the Testators, to the value of the debt recovered; were wasted by the Executors: And this was returned in Court; upon which the Plaintiff sued a *Scire facias* against the Defendant, to shew cause wherefore the execution should not be awarded against the Defendant of his own proper goods; and upon two *Nihilis* the Court awarded execution. Co. 5.32.

Nulla bona
na return-
ed upon a
Fieri fac.
against
Executors.
An enquiry
of waste,
and found
that divers
goods were
wasted, up-
on which a
Scire fac.
awarded,
and upon
two Nihilis

returned, execution awarded.

Execution of a Writ of Execution, as well as the suit of a common person, as at the Kings suit, is good without return of the Writ: For if a man be arrested upon a *Cap. ad Satisfaciendum*, the execution is good, although the Sheriff do not return the Writ: And so in Writs of execution, where the Sheriff only executes the same, as *Cap. ad Satisfaciendum*, *Habere fac. seisinam vel possessionem*, *Fieri facias*, *Liberat.* if the execution be duly made, it is good; but if *Cap.* in process be not returned, the Arrest is not lawful; for there the intent of the Writ is, to bring the party to answer the Plaintiff; and in case of an *Elegit*, for there the extent is to be made by Inquest, and not by the Sheriff only; and the Writ ought to be returned, otherwise

wise it is of no effect. In this case it was resolved, that when one hath a power of revocation, yet if he suffer any thing to be lawfully executed, as touching that, he cannot make any revocation: As if a man make a Letter of Attorney to another to do any thing, before execution he may revoke it; but after execution lawfully done, it cannot be revoked: If one to whom another is indebted be outlawed, and he that oweth the money payeth it to the King, and the Outlawry is after reversed, yet the Creditor shall recover his debt against the party. If the goods of an outlawed person be sold by the Sheriff upon a *Cap. utlagat*, and after the Outlawry is reversed by Error, the Defendant shall have restitution of his goods; for the Sheriff, or Escheater, is not compellable to sell the goods, but he may keep them to the use of the King, agreeing to the book, 20 *Eliz. Dyer* 363. But if a Sheriff by virtue of a *Fieri facias* sell the goods, and after the Judgment be reversed by Error, the Defendant shall not have restitution of the goods, but the value of them for which they were sold: And the reason is, the Sheriff is compellable to levy the debt of the goods of the Defendant; and therefore great reason, that the Sale should stand. *Coak* 5. part. 89. *Hors* Case.

*Outlawry
returned in
London
where not
good.*

An Outlawry returned in *London* in these words; *At the Hustings holden in Guild-Hall in the City of London, (such a day) A. B. exacted was, and appeared not: this is no good return; because there are two Hustings in London, the one of Common-Pleas, the other is of Pleas of Land; and therefore in such case the return must be, At the Hustings of the Common-Pleas, &c.* otherwise it is invalid, for that the same may have double intendment.

*The County omitted in
the return
of an
Exigent,* An Exigent was returned, *At my County held at the Castle of Y. the first time exacted was, &c.* And because the County was not set down, it was holden erroneous.

If the Sheriff return, that the party hath rendered him- upon Exi-
self upon the Exigent, and hath not the body, he shall be gent re-
amerced. turned,
that the

party hath rendered himself, and not so, not good.

If the Sheriff return a *Cepi corpus* upon a *Capias ad sa- Cep corp.*
tis faciendum, and hath not the body, he shall not only upon a cap.
be amerced, but the Plaintiff may have his Action a- ad satisf.
gainst the Sheriff for an escape, for so is he concluded by and not so,
his return. *Br. ret. 107.* erroneous.

If upon Process against the Husband and Wife, the Process a-
Sheriff returns that he hath taken them, and the Husband gainst the
appears at the day, but not the Wife, the Sheriff shall be Husband
amerced. and wife,
and the wife appears not at the day, not good.

Upon a Writ to enquire of damages, the Sheriff re- upon an
turneth, that the Enquest, or Jury, gave or found no enquiry of
damages, the Sheriff shall not be amerced for this de- damages,
fault of the Jury; for the Sheriff is but amerced where return of
he returneth the Writ falsely or insufficiently of himself; damages
whereas here he returned it as the Jury had presented it. no hurt to
the Sheriff,
44 E. 3. 3. *Br. 20.*

and why? &c.

If the Sheriff in a Writ of account or debt, shall return upon ac-
upon one, that he is not found, nor hath lands, &c. by which count or
he may be distrained, &c. whereupon a *Capias* is awarded debt, where
against him, and he thereupon taken, whereas he had the Sheriff
sufficient lands, or goods and chattels; then the party returns no
may have his Action upon the Case against the Sheriff lands
(directed to the Coroners) for such false Return. found, &c.
and he had lands, &c. not good.

It is not good to return upon a *Replevin*, that there is To say upon
no such goods or chattels, 5 H. 7. 27. Or in a Writ to de- a Reple-
liver goods upon a *Detinue*, it is insufficient to say, that vin that
there are no such goods. Or upon an *Habere fac. seisin.* there is no
that there is no such lands. *Ibid.* goods, &c.
not good. The like in *Detinue*, &c. Or upon *Hab. fac. seisinam.*

Return of Writts.

A. and his wife demandants against J.S. in Dower of a Free-hold in *Munden magna*, *Munden parva*; and D. the Sheriff returned, *Pledg. de prof. quend. I.D. R.R.* and the names of the Summoners, *I.D. R.F.* and after the Summons made, and by the space of fourteen daies, and more, before the return of the Writ, at the most usual door of the Church of *Munden magna*, where part of the Tenements lay, upon the 27th of October, being the Lords day, immediately after Service ended in that Church, he publicly proclaimed *all and singular things contained in that writ*, to be proclaimed according to the form of the Statute in that behalf made and provided. Exception was taken to the Return, because that Proclamation was not made at the doors of the Churches where the land lay; but it was sufficient to make Proclamation at any of the Churches, by the opinion of the Court: but because he said, he had caused to be proclaimed *all and singular in the writ contained*; it was holden, that the return was insufficient, because he did not express what. *Hill. 13. Jac. C.B. Allen and Walters Case. Brownlow. 1. part. 127.*

*Hab. fac.
seisin. in
Dower
ret.*

Upon an *habere facias seisinam*, in a Writ of Dower of the third part, the Sheriff returned, that he offered to the Demandants the seisin of the third part of the tenements aforesaid, and shewed to the parties what made the third part by mers and bounds incertain, according to the tenor of the Writ; and they refused to receive them of him. It was the opinion of the Justices, that the entry of the demandants was now lawful; and although exception was taken to the return, that it was incertain, and not good for repugnancy, yet upon the return being read and viewed, was allowed to be good; and the Court refused to award an *habere facias seisinam de novo*; for that they said would be a new president, the like of which was not seen. *Mich. 11 Eliz. Dyer 278.*

Upon an *Extendi facias*, upon a Statute-staple out of the Chancery, the Sheriff extended the lands of the Defendant, and he prized the goods, and seized them into the Kings hand, according to the Writ, but did not deliver them. Afterwards, a Writ of Prerogative came out of the Exchequer, commanding the Sheriff to levy a 100 l. which the Defendant owed the Queen upon his goods; and if he had not sufficient goods, then to extend the land; which

Writ

Writ was delivered to the Sheriff after the day of the return of the first Writ; but the first Writ was not returned, and the Sheriff returned the whole matter aforesaid into the *Exchequer*: And the Sheriff was amerced for making such special return, and was forced to execute the Writ of Prerogative; for it was holden by the Court, that until a *Liberate*, no property was in the Conuſee: But it was ſaid, that the goods being ſeized into the hands of the King for the uſe of the party, they were privileged from all other Executions, but that of the King only *Mich. 3 E. 6. Dyer 67. Stringfellow's Caſe.*

Note, it was reſolved and adjudged, that when judgment is given againſt Executors, and upon the *Fieri facias* the Sheriff returns *nulla bona*, that the Plaintiff may have a ſpecial Writ of *Fieri facias*, ſcil. That the Sheriff levy the debt of the goods of the deceased; *Et ſi ſibi conſtare poterit* that the Executors have waſted the goods, then of their own goods, becauſe that in ſuch a caſe, if the Sheriff make a falſe return, the party may have his remedy by an Action upon the Caſe. *Cook 5. part. 39. Pettifors Caſe.*

Matthew Herbert acknowledged a Recognizance to the King of 3000 *l.* and died; after his death, a *Scire facias* iſſued forth againſt the Executors *Testamenti & ultima voluntatis predicti Mathæi & hered. terrarum & tenementorum quæ ſua fuerunt*; and at the day the Sheriff returned, that he had not Executors; but *Scire feci Willielmo Herbert Militi & hered. dicti Mathæi quod ſit, &c. William* made default, and Judgment upon that default was given for the King, *quod recuperet verſus dicti Will. Herbert, &c.* And thereupon Error was brought, and three Errors aſſigned. 1. That the *Scire facias* was *hered. terrarum & tenementorum*; which was improper, and againſt Law: always one is ſaid Heir to his Anceſtor, and not to the Land; and it cannot be ſaid, that he is *ſilius*, or *conſanguineus*, & *heres Manerii de D. 1.* Admitting the Writ good, then ſo much as the Writ requireth, *Quod Scire facias hered. terrarum & tenementorum, &c.* And the return of the Sheriff, *quod Willielmo Herbert Militi fil. & hered. predicti Mathæi*, is not good, becauſe he doth not return him Heir of any Lands or Tenements; for his Warrant is not to ſummon the Heir of the ſaid *Matthew*, but the Heir of the

Return of Writs.

the Lands and Tenements of the said *Matthew*, and each return ought to answer the point of the Writ. 13. Admitting the Writ and the return good, yet the Judgment was not good, because it was general, where it ought to have been special, for by such Judgment his own Lands should be charged: But these points were not resolved by the Court. *Cook 3. part 15. Sir William Herberts Case.*

If the Sheriff return If the Sheriff return upon any person, *I have taken the body of, &c. or he hath rendered himself, &c.* the Sheriff shall *Cep. corp.* be charged to have the bodies of the said persons at the *he shall be* days of the returns, or the Writs of Precept, &c. 23 H. 6. *chargeable* cap. 10. And so was the Pristine Common-Law of this *with the* Nation. *body at* *the day of the return.*

Note. Note, that all process against any person, directed to *Br. attach.* the Sheriff, ought to be duly and truly executed fifteen *15.6.* days before the return of the Writ, *Br. attach.* 15.6. and returned into such Courts, out of which such Process shall be awarded.

I shall not trouble you with many forms of Returns, being already amply performed by *Master Kitching* in his Jurisdiction of Courts; only take these few select ones which follow.

The return of a Non est inventus.

Infra nominat. A.B. non est invent. in Balliva mea.

R.S. Ar. Vic.

The return of a Cepi corpus in the Common-Pleas.

Virtute hujus brevis cepi corpus infra nominat. A.B. cujus corpus coram infra mentionat. ad diem & locum infra content. parat. habeo, prout interius mihi præcipitur.

R.S. Ar. Vic.

Virtute

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Virtute hujus brevis cepi corpus infra nominat. A.B. cujus corp. cor. Dom. Rege ad diē & loc. infra content. parat. habeo, &c. prout interius mihi præcipitur.

The return of a Cepl corp. in the Kings Bench.

R.S. Ar. Vic.

Virtute hujus brevis cepi corp. infra nominat. A.B. cujus cor. Justic. infra mentionat. ad diem & locum infra mentionat. parat. habeo, prout interius mihi præcipitur: & ulterius certifico eisd. Justic. quod ceter. defend. non sunt invent. in balliva mea.

The return of a Cepl corp. and non est invent.

R.S. Ar. Vic.

Virtute istius brevis cepi corp. infra nominat. A.B. cujus corp. adeo languid. debile & infirmū in prisona sub custod. mea remanet, quod ob met. mort. ejusd. A.B. corpus ejus cor. Justic. infra mentionat. ad diem & locum interius content. habere non possum, prout per hoc breve mihi præcipitur.

The return of a Cepl corp. & languidus in prisona.

R.S. Ar. Vic.

Pro executione hujus brevis mihi direct. faciend. mandavi ballivo libertatis Hundred. de B. in Com. meo, qui plenam habet execution. omniū breviū warrant. mandat. & præceptor. exequend. infra libertat. prædict. & reton. cor. infra quam libertat. executio hujus brevis totaliter restat faciend. qui quid. Ballivus, scilicet, I.W. Miles (if there be no return of the Sheriffs warrant, or an insufficient return made, then thus, scilicet) nullū mihi dedit respons.

The return of a Mandavi Ballivo libertatis, where the Bailiff maketh no return of

the Sheriffs warrant, or where he makes an insufficient return.

But if the Bailiff of the Liberty return, that he hath taken the body of C. D. then thus, scilicet, qui mihi respondit quod cepit corpus infra nominat. C.D. cujus corpus cor. Justic. interius mentionat. ad diem & locum infra content. parat. habet, prout per hoc breve præcipitur.

And also where he returneth to the Sheriff he hath taken the body, and the like, in

R.S. Ar. Vic.

case the Bailiff returneth a languidus in prisona, or as he shal certifie the Sheriff by his return.

Virtute

The return of a Scire fac. where a Scire fac. is returned. Virtute hujus brevis mihi directi, T.G. & I.H. p probos & legales homines Ballive mei, scire feci infra nominat. A.B. quod sit coram Justic. interius memoriat. ad diem & locum infra content. ad ostend. &c. prout interius mihi præcipitur.

R.S. Ar. Vic.

The return of a Nihil ei scire facere possunt, neq; est invent. in ead. to a Sc. fa. Infra nominat. A.B. nihil habet in Balliva mea per quod ei scire facere possunt, neq; est invent. in ead.

R.S. Ar. Vic.

Return of a Scir. fac. for one, and Nihil for the other. Virtute hujus brevis mihi directi per T.G. & I.H. probos & legales homines de Balliva mea, scire feci infra nominat. A.B. quod sit coram Justic. infra memoriat. ad diem & locum interius content. ad ostend. &c. prout interius mihi præcipitur : & ulterius certifico eidem Justic. quod alter. defend. nihil habet in Balliva mea per quod ei scire facere possunt, neq; est inventus in eadem.

R.S. Ar. Vic.

The return of an Attachment and Proclaim. in Chancery. Infra nominat. A.B. non est invent. in balliva mea in omnibus locis in balliva mea, tam infra libertates quam extra, publice proclamari feci quod infra nominat. A.B. personalit. compareat coram Dom. Rege in Cancellar. sua infra script. ad diem & locum infra content. ad respondend. Dom. Regi de quodam contemptu, & ulterius ad faciend. & recipiend. quod eid. Cur. in hac parte videtur expediens, prout per hoc breve mihi præcipitur.

R.S. Ar. Vic.

A Nihil r. of a Ven. fac. upon an Indictment Infra nominat. A.B. nihil habet in balliva mea per quod attachiari potest.

R.S. Ar. Vic.

Presentment, or Information. Infra nominat. A.B. attach. est per pleg. Johan. Doo, & Rich. Roo.

R.S. Ar. Vic.

A summons return'd of the like.

Manuapt.

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Manuapt. infra nominat. A.B.

Johannes Doo,

&

Richardus Roo.

Exit. — 10 s.

R.S. Ar. Vic.

The return
of a Di-
string.
nup. vic.
or Bailly.

Executio istius brevis patet in quadam panell. hanc
brevis annex.

The return
of a Ven.
fac. jur.

R.S. Ar. Vic.

Nomina Jurat. inter A.B. quer. & C.D. def. de placito
transgr.

The pannel.

E.F. de G. Gen.

H.I. de eadem

K.L. de M.

And so to the number of 24.

Quilibet Jurator. prae. per se seperatim attachiat. est

per pleg. { Johannes Doo,
&
Richardus Roo.

R.S. Ar. Vic.

Executio istius brevis patet in quadam panell. hanc
brevis annex.

The return
of a Di-
stringas,
or a Hab.
cor. jur.

R.S. Ar. Vic.

Nomina Jurat. inter A.B. quer. & C.D. def. de placito
transgr.

E.E. de G. Gen.

A.I. de eadem

K.L. de M.

And so to the number of 24.

Quilibet Jurat. per se seperatim attachiat. est

per pleg. { Johannes Doo,
&
Richardus Roo.

Exit. eorum cujuslibet x s.

R.S. Ar. Vic.

*The return
of an Exi-
gent where
one bring-
eth a Sup.
one ren-
dretth him-
self, the o-
ther ap-
peareth not*

Ad Com.meum N.apud L.in dicto Com.octavo die *Janu-
ar.* Regni Dom. Regis infrascript. xliii, infra nominat.
A.B. C.D. & E.F. primo exact.fuer.& non comparuer. nec
aliquis eor.comparuit ; & ad Com.meum ibid.tent. primo
die *Febr.* anno xliii Regis præd.secundo exact.fuer.& non
comparuer.nec aliquis eor. comparuit ; & ad Com. meum
ibid. tent. primo die *Marci* anno supradicto tertio exact.
fuer. & non comparuer. nec aliquis eor comparuit ; & ad
Com. meum ibid. tent. secundo die *April.* anno ult. præd.
quarto exact.fuer.& non comparuer.nec aliquis eor. com-
paruit ; & ad Com.meum ibid.tent.primo die *Maii* anno
xliii ult.præd.quinto exact.fuer.præd. A.B. protulit mihi
breve Dom.Regis de Superfed.& est huic brevi annex.adeo
versus eund. A.B. ulterius procedere non potui : & præd.
C.D. se reddit in custodiam meam, ejus corp.cor. Justic.
Infrascript. ad diem & locum infra content.parat. habeo,
prout interius mihi præcipitur ; & præd. E.F. non com-
paruit : Ideo per judic. I.K. & L.M. Gen. Coron.Dom.Regis
Com.præd.prædict.E.F. utlagat. est.

R.S. Ar. Vic.

*The return
of a Pro-
clamation.*

Ad Com. meum N. tent. apud L.in Com.N. primo die
Febr. anno Regni Dom.Regis infrascript. xliii, & ad Gener-
al.Session.pacis tent. apud G. in Com.præd. xx die *Apr.*
anno supradicto,& ad maxime usuale officium Ecclesiæ Pa-
rochial de B.infrascript.super diem Dominic.scilicet,x diē
Apr. anno xliii Regis præd.publice proclamari feci, prout
interius mihi præcipitur.

R.S. Ar. Vic.

*The return
of an Al-
locat.*

Allocat. illis quatuor Com.ad quos infra nominat. A.B.
C.D. & E.F. quarto exact.fuer.& non comparuer. nunc ad
Com.meū N.tent.apud L.in dicto Com.N.præd.A.B. C.D.
& E.F. quinto exact.fuer.& non comparuer. Ideo per judic.
I.K. & L.M. Gen.Coron.præd.utlagat.sunt, & quilibet eor.
utlagat. est.

R.S. Ar. Vic.

*Return of a
Tarde.*

Istud breve adeo tarde mihi deliberat.fuit, quod propt.
tempor.brevitat.execution.inde facere non potui.

R.S. Ar. Vic.

Infra

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Infra nominat. A.B. capt. fuit per R.C. Mil. Baronett. *The return*
nuper Vic. Com. mei N. & non per me modo Vic. ejusd. *of Hab.*
Com. *cor. where*

R S. Ar. Vic. *the Def.*

Virtute istius brevis mihi direct. posul coram Justic. *was taken*
infra specificat. ad diem & loc. interius content. loquel. *by a form. r*
quæ est in Com. meo per breve dict. Dom. Regis inter in- *Sheriff.*
fra nominat. partes sub sigillis A.B. C.D. E.F. & G.H. *The return*
quatuor legales homines Com. mei qui Recordo illo inter- *of a Pone.*
fuer prout pater in quadam Scheda huic brevi annex. &
scire feci infra nominat. I.K. quod adt. & ibid. parat. sit
ad proseguend. loquel. inde versus infra nominat. T.W. ac
etiam habeo ibidem aliud breve huic brevi & Scheda
annex.

I.G. Ar. Vic.

S. ff. Ad Com. meum tent. apud I. in dicto Com. meo *The Sche-*
11 die. anno Regni dict. Dom. Regis xliiii. *dule.*

ff. I.R. queritur versus T.W. de placito debiti.

I.G. Ar. Vic.

Virtute istius brevis, per C.D. & F.G. probos & legales *Return of a*
homines de balliva mea, scire feci infra nominat. L.S.I.L. *Sci. fa. for*
etc. quod sint coram dicto Dom. Rege ad diem & locum *the release*
infra content. ad ostend. etc. quare. *of prisoners*

Infra nominat. G.S. nihil habet in balliva mea per quod *Return of a*
ei scire facere possum, neq; est invent. in eadem, neque *Nihil co*
sunt ulli tenentes, sive ullus tenens aliquarum terrarum *Sci. fac.*
sive tenementorum quæ fuer. infra nominat. W. super *against the*
diem infra script. judicii infra reddit. vel unquam postea *heir and*
in balliva mea, quibus scire facere potui, prout breve *tenants*
illud exigit.

I.G. Ar. Vic.

Pleg. de prosecuen. } Jo. Doo,
&
Rich. Roo.

Summon. infra nominat. } Anth. Sharp,
A.B. &
Rich. Sharp.

03

The return
of a Sum-
mons in
Dower.

Fi

Return of Writs.

Et ad maxime usual. ostium Ecclesiæ Parochial. de D. ubi infra nominat. A.B. inhabitat, super diem Dominic. scilicet, quartum diem Junii anno infrascript. immediate post celebration. divin. servic. in eadem Ecclesia fuit, publice proclamari feci, secund. form. statuti, &c.

R.S. Ar. Vic.

The return
of a grand
Cape in
Dower.

Virtute istius brev. mihi direct. xxvi die Apr. anno infrascript. cepi in man. dict. Dom. Regis per visis H.R. & T.R. proborum & legallum hominum de balliva mea, tertiam partem messuag. terrarum & tenementor. infra mentionat. cum pertin. prout interius præcipitur.

Summon. infra nominat. }
A.B. }

Jo. Den,
&
Ric. Fen.

R.S. Ar. Vic.

Pleg. de profe. }
quend. }

Jo. Doo,
&
Ric. Roo.

The return
of a Sum-
mons upon
an origi-
nal against
an heir.

Summon. infra nominat. A.B. }
fil. & hered. A.B. }

I.W.
&
E.W.

R.S. Ar. Vic.

The return
of Hab. fac.
possessionem,
&
cap. where
judgment is
signed with
cass.

Virtute istius brevis deliberari feci eidem A.B. possessionem suam termin. infra specificat. de messuag. terris & tenementis infra specificat. Ac etiam cepi corpus infra nominat. C.D. cuius corpus coram Justic. infrascript. ad diem & locum interius content. parat. habeo, prout interius præcipitur.

And where the Defendant is not found, then close thus:
Et ulterius certifico Justiciar. infra specificat. quod infra nominat. C.D. non est invent. in balliva mea.

R.S. Ar. Vic.

Virtute

Virtute hujus brevis deliberati infra nominat. I.G. Man-
neria, Messuag. Parc. Bosc. ac omnia & singular. terr. &
tenementa cum pertin. infra mentionat. habend. sibi &
assign. suis tanquam liberū tenū suū quousq; plenar.
satisfact. erit de debito infra mentionat. cum dampnis, misis
& custag. rationabiliter sustent. prout per istud breve
præcipitur. Et ulterius certifico dicto Dom. Regis, quod
infra nominat. R.W. non est invent. in balliva mea.

*The return
of a Libe-
rate out of
Chancery.*

R.S. Ar. Vic.

Virtute istius brevis mihi direct. in forma infrascript. in plena Cur. recordari feci loquelam infra mentionat. &
Recordum illud prout pater in Schedul. huic brevi annex.
coram Justiciar. infrascript. ad diem & locum interius
content. parat. habeo sub sigillo meo & sigillis R.C. M.C.
T.Y. & R.E. quatuor proborum & legalium hominum de
balliva mea, ex illis qui Recordum ill. interfuer. & partibus.
infrascript. diem illum præfixi, quod tunc sint ibi parat.
in loquela illa prout iustum fuerit prosecutur. secundum
exigent. istius brevis.

*The return
of an Ac-
ced. ad cur
The Sce-
dule.*

R.S. Ar. Vic.

B. ff. Apud Cur. Hundred. de B. tent. apud G. xii die A.
anno Regni dict. Dom. Regis xlii in eodem Hun-
dred. coram I.K. & L.M. liberis sectatoribus ejus-
dem Hundred.

B. ff. A.B. queritur versus C.D. de placito captionis &
ipius detentionis honor. & catallor.

R.S. Ar. Vic.

Virtute istius brevis mihi direct. in pleno Com. meo
N. lent. apud N. in Com. meo prædicto xii die A. anno
Regni dict. Dom. Regis xliii, recordari feci loquel. int. par. lo.
tes infrascript. (unde infra fit mentio) quæ loquel. patet
in quad. schedul. huic brevi annex. & record. illud coram
Justic. infra mentionat. ad diem & locum infra content.
parat. habeo sub sigillo meo, & sigillis W.H. L.E. I.B. &
T.C. quatuor legalium liberorum tenentium ejusdem
Com. ex illis qui recordum ill. interfuer. & partibus infra
script. diem ill. præfixi, quod tunc sint ibi parat. in loquel.
illa

*The return
of a Re. fe.*

Return of Writs.

illa prout justum fuerit prosecutur. prout istud breve in se
exigit. R.S. Ar. Vic.

The Schedule.

N. ff. Ad Com.meum N. rent.apud I. infra Com. præd.
xii die April. anno Regni dñi Dom. Regis xliii, co-
ram I.G. H.K. liberis tenentib. ejusd. Com. int.al. sic
continetur.

N. ff. F.I. queritur versus F.S. de placito captionis & in-
juste detentionis averior. suor.

R.S. Ar. Vic.

*Return a-
verla e-
longat.
and Cepi
corpus for
damages.*

Ante advent. istius brev. equa infra mentionat. per infra
nominat. G.H. elongat. fuit ad loca mihi incognit. ita
quod equam præd. infrascript. I.H. & H. retorn. non potui
sicut interius mihi præcipit. & ulterius infra mentionat.
Justiciar. certifico, quod virtute istius brevis cepi corpus
infra nominat. G.H. cujus corp. cor. diñ. Justiciar. ad diem
& locum infra content. parat. habeo, prout interius mihi
præcipitur.

R.S. Ar. Vic.

The writ.

Executio istius brevis patet in quadam Schedul. huic
brevi annex.

R S. Ar. Vic.

*The Sched-
ule.*

Virtute istius brevis mihi direct. & huic brevi annex.
quodd. warrant. feci cuidam W.R. ballivo meo ad arre-
stand. & capiend. I.S. in dicto brevi nominat qui quidem
ballivus meus virtute warrant. mei prædict. 11 die Febr.
anno Regni Dom. Regis infrascript. xliii, apud B. in Com.
meo arrestavit, & cepit corpus præd. I.S. prout per war-
rant. meum præcipitur; & eodem Johan. sic arrestat. capr.
& in custod. ut prædicitur, sub præd. arrestat. existend.
quidā G.S. de B. præd. simul cum præd. I.S. vi & armis, vi-
delicet, gladiis, baculis & cultellis in ipsum præd. W.R.
ball. meum adtunc & ibidem insult. fecer. & ipsum verbe-
raver. vulneraver. & maletrectaver. ita quod de vita ejus
desprebatur; & præd. G.S. ipsum I.S. sic ut prædicitur
sub præd. arrestat. existend. adtunc & ibidem extra
custodiā meā cepit & rescussit, & ad sui juris ad largum
ire permisit; & idem I.S. sicut prædicit. sub arrestat. ex-
istend. extra custod. meā similiter vi & armis adtunc &
ibid. seipsum rescussit, contra pacem dict. Dom. Regis,
&c. Et postea idem I.S. non est invent. in balliva mea.

R.S. Ar. Vic.

Return

*The return
of a Re-
scons.*

*The custody
of my said
Balliff.*

Return of Jurors.

HE must return six Jurors where the Venue lieth, if there be so many within the Hundred, viz. within the place where the demand is made; yet by the Stat. 27 *Eliz. cap. 6.* upon the tryal of an issue joyned in any personal action, if two sufficient Hundreders do appear, it is sufficient: He must return their names, and a true addition of their dwelling places, or some other addition by which the party may be known.

The Sheriff without a *Non omittas* may impannel a Jury of men living in a Franchise. 22 R. 2. Challenge 177.

No persons are to be returned above the age of 70. years, nor persons of a languishing sickness or disease at the time of their summons; no alien Infant under the age of fourteen, Clergy-men, or Ministers. Lamb. 382. *Fitz. 165. d. 166. a. d.*

None shall be impannelled upon a Jury for tryal of any matter out of their own proper County, except such Jurors may spend in Lands and Tenements 5 l. per annum, nor to try any matter within the County, except they have in Lands and Tenements 40 s. per annum of estate of Free-hold within the County where the issue is to be levied. *F. N. B. 166. d.* But after the Statute 27 *Eliz. cap. 6.* None are to be returned for the tryal of any issue in the Kings-Bench, Common-Pleas, Exchequer, or before the Justices of Assize, but such as have estate of Free-hold in Lands, Tenements or Hereditaments of the clear yearly value of 4 l. at least, out of ancient Demefne.

Though the current of the *Venire fac.* be but to return *Duodecim bonos & legales homines*, yet must he return twenty and four; if he return but three and twenty, and twelve appear and give their Verdict, this is error. *Co. 5. 36, & 37.*

He

Of Escapes.

He must
summon the
Grand Ju-
ries to
the As-
sises, and
Juries
for the
Quarter-
Sessions,

He is to summon and return the Grand Jury to the Assizes, and the Juries for the Quarter-Sessions of the peace, and is to array his pannel six daies (at the least) for the special Assizes, and before the Sessions of the Justices, so that view and copies for the Pannels may be had if they be required; which copies must be indented by the Sheriff, and delivered to the Plaintiffs, Defendants, or Tenants.

&c.

None must
be return-
ed upon
an Indict-
ment but,
&c. probi
& legales homines.

Upon an Indictment he ought to return none but *probi & legales homines*, viz. such as are not attain'd by Law, *Decies tantum*, subornation of perjury, concealment, such as are not outlawed, abjured, condemned in a *Premunire*, or attain'd of Treason, Felony, &c. 11 H.4. cap.9.

Return of issues.

He must re-
turn good
issues.

HE is to return good, sufficient, and reasonable Issues, & upon such persons as have sufficient goods and lands, according to the Stat. of *Westm.2. cap.39.* & *E.3. cap.5.*

Of Escapes, and what damages do occur to the Sheriff by them.

The Sheriff
must elect
an honest
Gaoler.

THE Sheriff ought to be very cautious in electing a vigilant and honest Gaoler, and such a one is as able to give sufficient security for his indemnity and true performance of his Office, and to answer all Escapes; for of all the Officers that appertain to the Sheriff, the Gaoler ought to be most circumspect, otherwise many Escapes would happen. And first, to define what an Escape is.

It is (here to be understood) where one that is Arrested and imprisoned in the common Gaol of the County, and cometh to his liberty before that he is delivered by the award of any Justices, or by order of Law. If the Imprisonment of him that escaped were for Felony, then that shall be Felony in him that did voluntarily (not otherwise) suffer the escape; and if for Treason, then it shall be Treason in him; and if Trespasse, then Trespasse, &c.

Although the Prisoner which escapes be out of the view, yet if fresh suit be made, and he be reprized in *reventi insecutione*, he shall be in Execution; otherwise at the turning of a Corner, or by an entry of an house, or by any other such means, the Prisoner may be out of view.

Co. 3. Rep. Rigweys Case.

If the Sheriff doth assent, that one who is in Execution, and under their custody, shall go out of the Gaol for a while, and then return, although that he return in the time, yet this is an escape; for the Sheriff ought to guard him *in salva & arcta custodia*; and the Stat. of *westm. 2. c. 11.* saith, *quod carceri mancipentur in ferris*. So that the Sheriff may keep such as are in Execution in Irons and Fetters, till they have satisfied their Creditors.

It is adjudged, if one be in Execution, no commandment although of the King himself, without Writ, is a sufficient Warrant to discharge the Goaler, and so by the same reason shall not discharge the Sheriff.

A. recovered upon a Plaint in London against B. and had him in Execution in Ludgate. A. died in estate: B. was permitted by the Keeper of the Gaol of Ludgate to go at large into Southwark with I. S. the Servant of the Keeper, and that by the commandment of the Keeper. The Administrator of A. brought debt against the Sheriff of London upon the escape: It was adjudged by all the Barons of the Exchequer, that it was an escape: and when the Prisoner came into Surrey, he had not any Keeper as a Prisoner for the Debt, for that he that waited upon him in the County of Surrey, could not be Officer to the Sheriff of London; for the power of every Sheriff extends not beyond his own County, unless it be in special cases: and it was holden in this case, that this voluntarily suffering him to go into another County, when the Keeper or Servant waited upon him there, the party might have an Action

what an escape is. For Felony it is felony in him that suffers the escape, &c.

If a Prisoner escape, yet upon fresh suit, and taken, he shall be in Execution.

Co. 3. Boytons Case. Idem sup. Lit. fo.

260. 13 E. 1 c. 11.

2 R. 2. c. 12. Plowd

360. a. The King cannot command without writ, to free a man, &c.

Of Escapes.

Action of false Imprisonment against him. *Plac. 3 E. 3. Plow. Com. Plat. and the Sheriff of Londons case. 36 vide 3 E. 6. Dyer 166.*

If Traytors be imprisoned under the custody of the Gaoler, and afterwards they break the prison and escape, the same discharges not the Gaoler, but he shall be charged with the escape: but it is otherwise of the Kings enemies; for in the one case he hath his remedy over, but in the other not. *Vide Co. 4. part. 84. Southcots case. Vide 3 E. 6. Dyer 66.*

A man was arrested upon a *Latitat* for 100 *l.* the Plaintiff intending upon his appearance, and bail put in, to declare against him for the same debt; and being arrested by the old Sheriff, who returned *languidus, &c.* and yet left him in prison, the new Sheriff suffered him to go at large, without finding Sureties for his appearance; whereupon he brought his Action upon the Case against the Sheriff upon the escape: upon *Non. culp.* pleaded, this matter was found. It was adjudged for the Plaintiff; for this permission to escape was a just cause of Action, for by this means the Plaintiff is defrauded or delayed of his action. *Trin. 12 Jac. in B.R. King, and Sir Eusebie Andrews Case Cro. 2 part. 386.*

In debt upon an Escape, it was holden by all the Justices, That if a Prisoner in execution escape, and the Gaoler make fresh suit, and before the retaking the party brings his action against the Gaoler: Now the Gaoler may not take the Prisoner, as to be in execution again for the party, but only for his own indemnity. But if the party doth not bring his Action, then the Gaoler may retake the Prisoner, and he shall be in execution again for the Plaintiff. *Hill. 43 Eliz. in B.R. in Goldesbr. 180.*

If a man escapes with the consent of the gaoler, he cannot retake him; if he doth, the other for his discharge shall have an *Audita querela*. *Co. 3 part. 52. Ridgways case*

Action upon the Case was brought against the Sheriff of *Middlesex*, for suffering one to escape who was arrested upon a bill of *Middlesex* for 33 *l.* The defendants pleaded, that after the Arrest, leading him towards *London* to the Gaol, he was rescued from their Bailiffs by I.S. and I.D. It was adjudged, that the Arrest being upon mean process, and not upon execution, the Sheriffs are not bound to take

posse

posse comitatus with them; and therefore upon such Process a Rescous is a good return, and the Sheriff or Bailiffs are not chargeable upon an escape: but upon a *Capias ad Satisfaciendum*, or *Capias utlagat.* after Judgment, such return is no excuse for the Sheriff, for at his peril he ought to keep his Prisoners taken in Execution: for there the Process is determined, and being executed, the party can have no new Process; but in the other case, there is not any great mischief, for the party hath only lost his Process, which he may renew, as also have an Action upon the Case against the Rescoussors: It was adjudged for the Defendants. *May, and Proby, and Lumley, Sheriffs of Middlesex's Case. Pasc. 13. Jac. in B.R. rot. 101. Cro. 2 part. 419.*

It was holden by the Justices in the Kings-Bench, that if a man be Arrested by vertue of a *Capias ad Satisfac.* or a *Capias utlagatum* after Judgment, and a Rescous is made at the same time, by reason of which the party Arrested escapes, that the Sheriff shall be charged for the escape, with the whole Debt, and he shall have his remedy over against the Rescoussor by an Action upon the Case. *Trin. 7. Eliz. Dyer 241. vide 16 E. 4. 2. & 3. But note, Pasc. 15 Car. in B.R.* It was agreed by the Justices, that if the Sheriff doth Arrest a man upon a Mesne Process, and return a *Cepi corpus*, and that the Defendant was rescued, that no Action lieth against the Sheriff; but if the party be taken upon an Execution, and be rescued, an Action upon the Case will lie against the Sheriff. *Vide Marsh. Pasc. 15 Car. in B.R. 1.*

Where the Sheriff dyeth, and one in Execution breaketh the Gaol, and goeth at large, this is no escape; for when a Sheriff dieth, all the Prisoners are in the custody of the Law, until the Election of a new Sheriff.

If a Woman be Warden of the Fleet, and a Prisoner in the Fleet marrieth her, this shall be judged an escape in the Woman, and the Law judgeth the Prisoner to be at large. *Plow. Comment. Plats Case.*

If the Sheriff die,
and one
breaks the
Gaol, no
escape, &c.
If a Woman
Gaoler
marrieth a
Prisoner,
adjudged

an escape. *Plow. Com. Plats. Case.*

If

It is no
escape, if
prisoners
be removed
out of the
County that
they may
be removed
to another
place
within the
same Coun-
ty; but not
for their
ease, for
then it is
an escape.

Mich. 3 Car. com. Banc.

If the Sheriff remove his prisoners out of the County without being commanded, it is an escape. But if he remove them from one place to another in his County as he changes his Gaol, it is no escape; but if he remove his prisoners for their ease and delight in the same County, it is an escape: the case was cited by *Harvey, Mich. 3. Car. com. banc.* That the Sheriff went with his prisoner to a Bear-baiting in the same County, and it was adjudged an escape. And *Hutton* Justice said, that if a Sheriff permit his prisoners to go to work for their benefit, it is an escape. And the question was, if in an *Audita Querela* for a voluntary escape of one in execution, there should be bail; and the opinion of the Court was, that if it appears that the cause upon which the *Audita Querela* is grounded, is called a good proof by the Record, that he should not be bailed, unless good and special bail.

The Sheriff
upon fresh
suit may
take a pri-
soner in another County.

If a prisoner of his own wrong escape and flee into another County, the Sheriff, or his officers upon fresh suit, may take him again. See *Daltons office of Sheriffs.*

No felony
in the
Gaoler to
kill a pri-
soner that
attempteth to escape.

If a prisoner in the Gaol attempteth to escape, and having broken his irons, striketh the Gaoler (coming in the night to his prisoner) and the Gaoler slayeth him, tis no Felony, 22 Aff. 135.

All prison-
ers ought
to be kept
in salva &
arcta cu-
stodia. 13
E. 3. Fitz.
tit. bar.
plac. 253.

An Action of debt was brought against a Gaoler for an escape, who said that the Sheriff did not deliver him lawfully to him; and it was therefore ruled, 13 E. 3. Fitz. tit. Bar. plac. 253. That he shall not take benefit, nor any notice whether he was lawfully delivered to him in execution, or not: But he being once in his custody, he ought to keep him in *arcta & salva custodia, sub salva* for the Gaoler, and *arcta* for the party, the Plaintiff; the party by this being coerced to pay the debt.

Mich.

Mich. 12 Jac. An Action upon the Case was brought against the Sheriff of *N.* for an escape; upon *Not guilty* pleaded all the special matter was found and shewed the Court; which was this, That a *Capias* did issue to the Sheriff to take one (*John*) which was by a wrong name *Capias* by and the Sheriff returned *Non est inventus*; and upon this a *Testatum* issued out to him, and therein named him by his right name; upon this the Sheriff took him, and had him in execution, and afterwards suffered him to escape. The whole Court agreed, that the Sheriff is answerable for his escape, notwithstanding the first *Capias* was by a wrong name, for he was taken and suffered to escape: and here upon *Not guilty* pleaded, the special matter was found, and shewed that the first *Capias* was by a wrong name; yet the Court was clear of opinion, that he being taken, and in execution by his right name, though the first *Capias* was erroneous, and not right, the Sheriff shall be chargeable for this escape clearly; and so by the rule of the Court Judgment was given for the Plaintiff.

ed answerable for the

I think it very pertinent to our subject matter, (and 'tis well worth observation) to transcribe *Whitings Case* against Sir George Reynell, Marshal of the Kings Bench, in the second part of *Crooks Reports*, fol. 657, and 658. viz. Debt for 202 pounds; whereas he recovered against *Thomas Abingdon*, and *Mary* his Wife, in trespass for damages, 202 pounds; and the said *Mary* was committed in execution to the Defendant upon this Judgment; That the Defendant, 24 Novemb. 16 Jac. suffered her to go at large whither she would, his Debt not being satisfied, *per quod actio accrevit*. The Defendant pleaded, that she brake prison and escaped, and he freshly followed her and took her again, 21 Octov. 17 Jac. in fresh suit, and had her in execution, and yet hath her, &c. Whereupon the Plaintiff demurred; and it was now argued, that this Plea was not good, because the escape is alledged 24 Novemb. 16 Jac. and the Action is brought Pasch. 17 Jac. And this reprisal is alledged a year after the escape, and after the Action brought. For it was alledged, al-

Crook 2.
f. 657, &
658. *Whitings case.*
A mans
wife taken
in execution,
and suffered to go
at large
before the
debt satisfied,
judged
an escape.

A reprisal though a reprisal by fresh suit (if it had been before the
by fresh action brought) would peradventure have excused him ;
suit before yet being after the action brought, so as the Plaintiff at
the Action the time of the action brought had good cause to have the
brought, action, the reprisal after shall not excuse him ; and com-
excusable ; pared it to waste brought for reparations, which is amend-
but a ded pendant the Writ, it shall not excuse him. So here.
reprisal
after the Action brought, no excuse.

Co. 3. f. 52. And in proof thereof were cited. *Co. 3. fol. 52. Ridge-*
ways case. 23 E. 4. 8. 13 Edw. 3. tit. Barr. 253. But a-
 gainst this it was argued, that this reprisal being alledged
 to be by fresh suit, and before the Plea pleaded, is good for
 the time, and he shall take advantage thereof to excuse
 the escape : For it is upon the matter no escape, when she
 was re-taken by fresh suit ; for that is a continual pursuit,
 and the Law shall adjudge her in prison always. And it
 is not like the case of waste ; for there nothing was done
 after the waste committed, before the action ; and the re-
 paration hath not any relation, nor is the continuance of
 any former act : but this reprisal hath relation, and makes
 it no escape, *ab initio*. As a Distress taken for rent, and
 rescued, and driven into another Mannor, which is pur-
 sued and re-taken, the party shall make his avowry of the
 taking in the first place. So here. And it would otherwise
 be a great mischief, if an escape should be against the
 wills of Sherliff, or keepers of prisons, by breach of pri-
 son, or rescuing themselves before they be brought to pri-
 son, or in their going thither, and the prisoners be re-
 prisled within two or three daies, that an Action should
 be brought in the *interim* against the Gaoler, and that
 this reprisal (when he hath the prisoner before the plea)
 should not be an excuse, especially to the Marshal, who
 hath multitude of prisoners, and every day is to bring
 them unto the Hall by *Habeas Corpus*, or Rules of Court :
 If peradventure a Prisoner escapes, and an Action be
 brought against the Marshal the same day, before he can
 have any time to re-take him ; if he should not be excu-
 sed by the re-taking, he would be charged with a multi-
 tude of Suits, and could not have any remedy to excuse
 him.

him. And therefore it was compared to the pleading of a Fine levied before the Writ of *Formedon*, and Proclamations incurred, pendant the Writ before the plea pleaded, he well may take advantage thereof by pleading it, although when the Writ was brought, it was not compleat, nor could be pleaded. *Vide* 6 H. 7. 12.

Secondly, It was moved, admitting this to be no plea, yet the action lies not here, because the Escape is of a *Feme Covert*, where a Baron is subject to the execution: So the Plain:iff hath not lost his debt; for by intendment she might not have paid it, if she had lain in Prison; for she had nothing but what was her Husbands, and the Execution remains yet against him.

Therefore Action of Debt lies not, because he is not totally deprived of his Debt; but an Action upon the Case, in respect of the damage.

And therefore it was said, If one have execution of a Statute of the Lands, Goods, and Body, &c. and the Prisoner escapes; yet because the Lands remain in execution, debt lies not for the escape, but an Action upon the Case: For at the Common-Law, an Action of Debt was not maintainable for an escape, but it is given by the Statute of 1 Richard 2. where the debtor escapes. But here the sole and principal Debtor did not escape; for the Baron is the principal, and remained subject to the Execution. *Vide* 33 H. 6. 47. N. Br. 93. *Regist. fo.* 98. 4 H. 6. 6. Statute
1 R. 2.

Wherefore, &c. But the Court held, that it was not any Plea, because the Action is brought, and implies a voluntary permission *in ad largum*, which is neither denied or traversed. And if the Sheriff voluntarily lets a prisoner at large, he cannot re-take him. And so this reprisal, as is alledged, being after the Action brought, is to no purpose, nor is any Plea. And for the Action of Debt, they held that it well enough lies, or an Action upon the Case at his pleasure; because the Feme was only committed to Prison, and not the Baron; and she is the sole debtor who is imprisoned; wherefore it was adjudged for the Plaintiff.

But note, In as much as escapes are so penal to Sheriffs, Bailiffs of Liberties, and Gaolers, the Reverend Nota.

Judges of the Law have alwaies made a favourable construction, as much as the Law will permit, in favour of the Sheriffs, Bailiffs of Liberties, and Gaolers, who are Officers and Ministers of Justice. Co.3.44.

Of Bail, what it is, and where the Sheriff may take Bail, and where not.

what bail is, Co. super Lit. lib. 1. c. 10. Sect. 79.

Bail, or Ballium, is a safe keeping or protection; and thereupon we say, when a man upon Surety is delivered out of prison, *traditur in ballium*, he is delivered into bail, *viz.* into their safe keeping, or protection from prison, before that he hath satisfied the Law: It hath its original or derivation from the French word *Bailler*, and that also cometh from the Greek word *βαλλειν*. They both signifie to deliver into hand; for he that is bailed is taken out of a prison, and delivered into the hands of his friends, who are his Sureties for his appearance at a certain day, to answer and be justified by the Law.

Any person making a warrant, &c. without original Process upon examination. &c. shall be committed without Bail, &c. 43 E. 6. Such as are in execution, &c. not to be bailed.

The like.

Sheriffs, Under-Sheriffs, or other persons, making any warrant for the summons, arresting or attaching any person to appear in any Court, not having the Original Process or Writ to warrant it, upon examination and proof thereof before the Judges of Assize, or Judges of the Court, &c. such Offender and their Procurers shall be committed to the Gaol, there to remain without Bail until they have paid (amongst them) 10 l. to the party grieved, and his costs and damages; as also 20 l. to the King. 43 Eliz. c. 6.

Such persons as are in execution upon any Statute or Recognizance, or upon Judgment given in the Kings Court at the suit of any person, they shall not be bailed until they have agreed with the Plaintiff. 1 R. 2. c. 12. 23 H. 6. c. 10. F. N. B. 9. & 121. a.

Persons condemned in any of the Kings Courts, and by vertue thereof committed to Prison, they shall not be bailed until they have agreed with the Plaintiff. 1 R. 2. c. 12. 2 H. 5. c. 2. F. N. B. 121. a.

If the Sheriff do let to bail any persons prohibited (by *None to be the Stat. of westminster 1. cap. 15.*) to be bailed, he shall be punished by Justices of Gaol-delivery, according to the form of the same Statute; or the Justices may fine them, as for an escape punishable at the Common-Law. *Stat. west. 25 E. 3. 39.*

The Sheriff might at the Common-Law have bailed one suspected of Felony (because he is Conservator of the Peace) but now it seems the power is transferred to the Justices of the Peace only. See the Statute *1 R. 3. c. 3. & 3 H. 7. 3.*

If a Prisoner ballable tender sufficient Sureties to the Sheriff, and he refuseth, he shall be amerced to the King and Informer *40 l.* and shall lose treble damages to the party grieved.

der of sufficient Sureties.

If a person be Arrested by vertue of any Writ or precept in any Action personal, upon tender of reasonable Sureties to appear at the day and place, as the said Writs, Bills, or Precepts shall require, he shall be Bailed. *23 H. 6. c. 10. Fitz. 251. b.* And the person is not obliged to go to the Sheriff, if he offer sufficient bail to the Bailiff.

Persons apprehended for any manner of Treason or Felony shall not be bailed. *west. 1. cap.*

It is a constant Course of the Kings-Bench, that the bail is never chargeable till there is default assigned in the principal upon the Return of a *Capias ad satisfac.* And if the principal render his Body, though the Plaintiff refuse to take it, yet that is a discharge of the bail. *Winch. Rep. fo. 62.*

assigned in the principal, &c. *Winch. Rep. fo. 62.*

It is not repugnant to our present subject to transcribe the new Rules concerning special bail, viz.

1. That if the Defendant appear upon the summons, attachment, or distress, or by *Superfedeas quia improvidi*, or doth truly render himself upon the Exigent, no bail is requirable.
2. That

2. That in all causes of removal, be it by *Habeas corpus*, Privileges, or *Certiorari*, special bail ought to be given.

3. That in Causes where the Defendant comes in by *Cepi corpus*, be it debt, detinue, trespass for goods, action upon the Case (except slander) if the debt or damages amount to 20 l. special bail is to be given, except it be against an Heir Executor, or Administrator.

4. That in Covenant, because the damages are uncertain till the Declaration, bail at discretion.

5. That in Battery, Conspiracy, false Imprisonment, no special bail of course, without special motion and order.

6. That in slander no special Bail, except in slander of Title, wherein to be left to the discretion of the Judges.

7. That in privilege, other then for Fees and disbursements as an Attorney in this Court, bail or discretion of the Court. In such case where a Suit by a common person, especial bail is not requisite.

8. That if bail be given upon reversal of an Outlawry, or removal by *Habeas corpus*, the Original to be shewn upon rendering of the Declaration, otherwise the bail not liable, unless the party or his Attorney will voluntarily appear, or take a Declaration without shewing of it.

9. That in case of a removal out of an inferiour Court, or reversal, the new Original to agree in the nature of the Action, the sum in demand, and the County, otherwise the bail not liable; but if the party will voluntarily appear to such varying original, to be good as to the party; but if upon a Cause removed by *Habeas corpus* out of the Courts of *Canterbury, Southampton, Hull, Litchfield, or Pool*, which are Counties where the Judges of *Nisi prius* seldome come, if the Action be transitory, it must be laid in the County of *Kent, Southampton, York, Stafford or Dorset*, where the Town and County lieth, and the Recognizance to be taken accordingly.

10. That the principal rendering himself at any time after bail put in, and before or upon the day of appearance of the *Sci re fac*, returned, *Sci re feci*, or of the second *Sci re fac*. returned *Nihil*; or in case there shall be an Action of debt brought upon the Recognizance against the bail,

Of the Election of Parliament-men. 211

bail, then if the principal shall render himself upon or before the Process returned or served, no further proceeding to be against the bail.

Of the Election of Parliament-men, how, and when they are to be Elected, &c.

THE manner of Electing Knights, of the Shire is as followeth: *viz.* At the next County-Court after the delivery of the Writ, Proclamation is to be made in full County, of the day and place of the Parliament; and that all therepresent, as well suiters summoned as others, shall attend to the Election of the Knights; and then in full County a free and indifferent Election shall be made, notwithstanding any request or mandate to the contrary. And note, That no Election can be made by any Knight of the Shire, but between the hours of eight and eleven in the forenoon: but if the Election be begun within the time, and cannot be determined within those hours, the Election may be made after. And if any Election or Voices be given before the Precept be read and published, they are void and not effectual.

*Stat. 7 H.
4. 15.*

*Co. Inst. 4
fol. 48.*

Likewise he ought immediately after the receipt of the Writ of his Majesty for the summoning of the Parliament, to make his Precepts under the Seal of his Office, to every Major and Bailiff of Cities and Burroughs within his County, commanding them thereby to chuse Citizens and Burgesses to come to the Parliament. And those Majors and Bailiffs must make a legal return of that Precept to the Sheriff of their Election, and their names that are Elected: The Sheriff setting his Hand and Seal of Office to one part of the Indentures, delivering it to the Major, Citizens, or Burgesses, to be kept; the Major, Citizens, or Burgesses setting their hands and seals to the other part, delivering it as their Deeds to the Sheriff, to be certified and returned by him with the Writ of summons to the Clerk of the Crown, whose Fee is 4 s. for every Indenture. 23 H.6. cap. 15. Crompton 208. P. Parl. 5.

*23 H.6. c.
15. Crompt.
208.*

Rot. Parli-
am. 5 H. 4.
num. 38.
Co. Inst. 4.
fo. 49.

Note, that after the Precept of the Sheriff directed to the City or Borough for making of Election, there ought *Secundum legem & Consuetudinem Parliamenti*, to be given a convenient time for the day of Election, and sufficient warning given to the Citizens or Burgeses that have voices that they may be present, otherwise the Election is not good.

And likewise note, that whereas in the Charters of Corporations it is said, That in the Election of the Major, Bailiffs, Provosts, Parliament-men, or like the Magistrates or Officers, they shall be chosen by all the Commonalty or Burgeses; if they have been chosen (time out of mind) by a certain select number, commonly called the Common-Council, or by suchlike name, and not in general by all the Commonalty or Burgeses, only so many of them as will come to the Election: such ancient and usual Elections are good and well warranted by their Charters, and by the Law also; for in every of their Charters they have power given them to make Laws, Ordinances, the Constitutions, for the better Government of their Cities, Boroughs, &c. by force whereof, and to avoid popular confusion, if they by their common consent do constitute and ordain, that the Major, Bailiffs, other principal Officers, shall be chosen by a certain select number of the principal of the Commonalty or Burgeses, as aforesaid, and prescribe also how such select number shall be chosen, such Ordinances and Constitutions were resolved to be good and allowable, and to agree with the Law and their Charters, for avoiding of popular discord and confusion: And it was resolved, that although such an Ordinance and Constitution cannot be now produced, yet it shall be presumed, in respect of such a manner of ancient and continual Election, and that at first such an Ordinance or Constitution was made: and it was said, that by the ancient and usual usages, Elections have been so made in the Cities of London, Norwich, and in other Cities and Corporations, all which were resolved to be good; and they were not to be innovated, or altered, for the many great Inconveniences which may arise thereby. Co. 4 part. 77. *The case of Corporations.*

At the Election if the party Elected, or the Free-holders demand the Poll, the Sheriff cannot deny the Scrutiny, for
he

he cannot discern who be Free-holders by the view: and *Co. Inst.* though the party would have the Poll, yet the Sheriff *fol. 48.* must proceed in the scrutiny. And by the Stat. of 8 H. 6. *who may* 2.7. & 10 H. 6. c. 2. the election of Knights of the Shire *be electors.* shall be made by the more voices of the people dwelling in the Counties, having each of them lands or tenements of the yearly value of 40s. besides reprises; and the Sheriff hath power to examine upon Oath the chusers, how much they may expend by the year.

After such Election, the names of the parties so elected (be they present or absent) shall be written in an Indenture, under the Seals of all those that did chuse them; which Indenture so sealed and taken to the said Writ, shall be the Sheriffs return thereof touching the Knights of the Shires: And in such Writs (by the said Statute) this clause shall be hereafter put, *Et electionem tuam in pleno Comitatu tuo factam distince & aperte, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nos in Cancellaria nostra ad diem & locum breve contentum certifies indilate.* *7 H. 4. c. 15.*

Such persons as are eligible shall be resiant in the County for which they are chosen, the day of the date of the writ of summons, and likewise those that chuse them: Also Citizens and Burgeses shall be resiant in, and free of the Cities and Boroughs for which they are chosen.

One under the age of one and twenty years is not eligible, neither can any Alien be elected of the Parliament until he be naturalized by Parliament, after which he is eligible to this or any other place of Judicature. *what persons are eligible, and who not. Co. Inst. 4. fol. 48.*

None of the Judges of the King-Bench, or Common-Pleas, or Barons of the Exchequer, that have Judicial places, can be chosen Knight, Citizen, or Burges of Parliament, because they are assistants in the house of Lords. As for present times I make a quære of this. *ibid.*

A man attaint of treason, felony, &c. is not eligible: for touching the election of two Knight, the words of the Writ are, *Duos milites gladiis cinctos, magis idoneos, & discretos eligi fac.* And for election of Citizens and Burgeses the words of the Writ are, *Duos, &c. discretioribus & magis sufficientibus;* Which they cannot be said to be, when they are attainted of Treason or Felony, &c. *ibid.*

Any of the profession of the Common-Law, and who are in practice of the same, are eligible.

Of the Election of Parliament-men.

By the *Humble Petition and Advice*, those are disabled to be elected, who have advised, assisted, or abetted the rebellion of *Ireland*, and those who do or shall profess the Popish Rebellion; and likewise all those who have aided, abetted, advised or assisted in any war against the Parliament, since the *First day of January 1641*. (unless he or they have since born arms for the Parliament, or Protector, or otherwise given signal testimony of their good affection to the Commonwealth, and so continued) and such as have been actually engaged in any plot, conspiracy or design against the person of the Protector, or in any Insurrection or Rebellion in *England* or *Wales* since the 16 day of *December 1653*. are disabled and made incapable to be elected.

Punish-
ment of
Sheriffs for
their neg-
ligence in
elections or
returns.

The punishment of Sheriffs for their negligence in returning of Writs, or for leaving out of their Returns any City or Borough which ought to send Citizens and Burgesses, *Vide 5 R. 2. Stat. 2. cap. 4*. Also if one be duly elected Knight or Burgess, and the Sheriff return another, the return must be reformed and amended by the Sheriff, and he that is duly elected must be inserted: for the election in these cases is the *Radix* or foundation, and not the return. *Rot. Parl. 5 H. 4. num. 38. Co. Inst. 4. fol. 47*.

Penalties
on Counties
and places
for not
electing.

By the Statute of 16 *Car.* every County, City, Cinqueport, and Borough that shall not make election of their Knights and Citizens, Barons and Burgesses respectively, shall incur the penalties following, (that is to say) every County the sum of one thousand pounds, and every City which is no County 200 *l.* and every Cinqueport and Borough the sum of 100 *l.* except the Free-holders of any County, and Inhabitants, or other persons having or claiming power to make election of any Knights, Citizens, Barons or Burgesses, shall proceed to making of elections of them, which elections shall afterwards fall out to be adjudged or declared void in Law by the Parliament, by reason of equality of voices, or misdeemeanor of any person whatsoever; then the said County, City, &c. shall not incur the penalties aforesaid, so as an election *de facto* be made.

Note

Note a case worthy observance adjudged, 14 Car. 2. Intrat. Hill. 13. & 14 Car. 2. rot. 1184. Co. B. Leclimpe's Case. *Trespass pedibus ambulando & cum spadonibus, &c.* The Defendant justified, because that a Writ issued to the Sheriff of Worcester to chuse Knights for the said County to be at the Parliament; and that the next County-Court for the said County, after the receipt of the Writ, was holden at the Castle of Worcester; and because the said Castle was not large enough to contain the Free-holders assembled to make the said election, the said County-Court adjourned it self from the said Castle of Worcester, to the place in *quo, &c.* The said Defendant further said, That he the time of the Court holden as aforesaid, and adjourned as aforesaid, was a Free-holder inhabiting within the County of Worcester, seized of lands and tenements in Hanley Castle in the County aforesaid, to the value of 200 l. per ann. and that the dwelling of the Defendant was distant from the place in *quo, &c.* six miles; and that the Defendant in obedience of the said Writ & adjournment, came *prædict. tempore quo*, from his dwelling-house to the place in *quo, &c.* riding upon a Gelding, with one servant attending as his servant upon the person of the Defendant riding upon another Gelding, to the intent that the Defendant might give his voice for the election of two Knights, according to the command of the said Writ.

Upon which the Plaintiff did demur in Law; and upon argument at the Bar, Judgment was given by the whole Court, viz. Tirrel, Brown, Hyde, and Bridgman Chief Justice, for the Defendant.

In which Case these points were resolved :

1 That the County-Court, as to the election of Knights, is the Court of the Sheriff, and the Sheriff is the Judge, and the adjournment his act, the Writ being in the nature of a special Commission (*electi facias*) although that in other cases the Suitors are Judges.

2 That if the Sheriff adjourn the Court to another place, and the Suitors do not attend at the place of adjournment, they are amerceable by the Sheriff.

3 That they are by their attendance are not Trespassers, by reason of the necessity to make election. (*interest republica.*)

4 That

Of the Office of Under-Sheriff.

4 That if the Sheriff maliciously adjourn to an unfit place, as a field of corn, &c. that an Action lieth only against him, not against the Free-holder.

5 That the Defendant living at such a distance from the place of adjournment, may justify his coming there on horseback.

6 That the Defendant being an Esquire, may justify his coming thither with one Servant on horseback attending upon him. Adjudged for the Defendant.

Nota.

But who shall be Electors, and who shall be Elected, and the time, place, and manner of Elections, and therein the duty of the Sheriff, you may read more amply in the positive Laws of 7 H. 4. cap. 15. 11 H. 4. cap. 1. 1 H. 5. cap. 1. 8 H. 6. cap. 7. 10 H. 6. cap. 2. 23 H. 6. cap. 15. 6 H. 6. cap. 4. &c. which need not here be particularly rehearsed.

Of the Office of Under-Sheriff.

what he is.

Hobert
fol. 13.
Norton's
case a-
gainst
Simms.

THE Under-Sheriff (in effect) is but the Sheriff's Deputy, and acts whatsoever is to be acted by the High-Sheriff; (except some particulars which are to be done by the Sheriff himself, as you shall find in several places of this Treatise) and therefore according to the nature of a Deputation, must be removeable as an Attorney is: and though the Sheriff should make him irrevocable, yet may he revoke him; for there is neither Common-Law, nor Statute-Law that makes him immoveable. He is but in the nature of a general Bailiff errant to the Sheriff, and the whole County, as other Bailiffs are over a particular Hundred.

His Oath appointed by the Statute of 27 Eliz. is, That he shall bear himself well for as long as he shall continue in the Office It is necessary both for the publick service, and for the indemnity of the Sheriff, that he be removeable by the Sheriff.

The

The Sheriffs Fees.

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The Sheriff constituting an under-Sheriff, doth implicitly give him power to execute all the Ordinary Offices of the Sheriff himself that may be transferred by the Law; as serving of Process and Executions, &c. But he cannot deal in a Writ of *Rediſſeiſin*, because in that the Sheriff is Judge; nor in the case of a Writ of *Waste*, where the Sheriff himself (*in propria persona*) is commanded to go to the place wasted, because it is personal unto the Sheriff himself.

He hath power to execute all the ordinary Offices of the Sheriff, that may be transferred by the Law, &c.

If a Sheriff will make an Under-Sheriff, provided that he shall not serve Executions above 20 *l.* without his special Warrant, this proviso is void. For though it be at his Election not to make an Under-Sheriff at all, or may depute him at his will, and so remove him wholly; yet he cannot leave him an Under-Sheriff, and yet abridge his power, no more than the King may in case of the Sheriff himself. *Hob. Rep. fol. 13.*

The Sheriff ought to be very cautious in taking good and sufficient security of the Under-Sheriff, to discharge, protect, and save him harmless of escapes upon Arrests made by himself; for since that he transfers his Authority unto him, it is reason that he take security of him to perform all things justly and honestly to himself and others, not acting or intending any thing against Law. See more in the Articles betwixt the High-Sheriff and Under-Sheriff, amongst the Presidents.

The Sheriff must take good security of him, &c.

The Sheriffs Fees.

Upon an Arrest,	TO the Sheriff	00 01 08
	To the Bailiff who makes the Arrest or Attachment	00 00 04
	To the Gaoler if the person be committed to Prison	00 00 04
	For the Obligation for appearance if the Prisoner be bailed	00 00 04
	For making the Warrant upon the Writ, for every name	00 00 04
	For the Copy of a Pannel	00 00 04
		For

<i>Extortion</i>	For returning of a Pannel, though it seems to	
<i>by Lamb.</i>	be Extortion by <i>Lamb. fol. 4.15.</i> and <i>Cromp. fo.</i>	
<i>fol. 4.15.</i>	205. b. they use to take	00 02 00
<i>Cromp. fol.</i>	For the return of every <i>Cepi corpus</i>	00 00 04
205. b.	For the return of a <i>Nibil</i> , or <i>Non est inventus</i>	00 00 04
	For making Proclamation at the Chu ch-door	
	upon an Exigent, &c.	00 01 00
	For the return of a Proclamation	00 01 00
	For the return of every <i>Venire facias</i> , <i>Talis</i> ,	
	<i>Habeas corpora</i> , and <i>Disfringas</i>	00 02 04
	For every name returned out-lawed	00 00 04
	For making a Precept upon a Writ to a spe-	
	cial Bailiff, for every name	00 02 00
	For the Arrest of every Defendant from the	
	Plaintiff	00 01 00
	For the Copy of the Warrant upon the Writ	00 03 04
	For the returning of a <i>Mandavi ballivo</i>	00 00 04
	For Writs of Execution upon the Judgment	
	upon Bills sued in personal Actions, the debt or	
	damage being under 40 s.	00 01 00
	Upon Bills sued above 40 s. in Actions per-	
	sonal, for the return of every such Bill	00 00 04
	For every Writ of Execution	00 02 00
	For executing of every Writ of <i>Elegit</i> in per-	
	sonal Actions	00 06 08
	In all real or mixt Actions sued by Original	
	Writ for return of every Original Writ	00 02 00
	And for return of every other Writ of Judi-	
	cial Process depending upon the same before	
	Judgment	00 02 00
	And for every Writ of Execution after Judg-	
	ment, upon every Original in Action, real or	
	mixt	00 02 00
	For executing every <i>Habere fac. seisinam</i>	00 06 08
	For Attachments upon <i>Capias</i> , or other Pro-	
	cess sued by Original or Judicial Writ, if the re-	
	turn be <i>Cepi corpus</i>	00 02 00
	For a <i>Reddidit se</i> upon an Exigent of Felony	
	in appeal of Murder, or Maim, or upon an	
	Indictment of Felony or Murder	00 02 00

Upon

Upon a <i>Redidisse</i> upon an Exigent of debt, trespass, detinue, and all other Actions personals—	00	01	00
For the making of a <i>Repleg</i> —	00	01	00
And <i>Whithernam</i> upon the same—	00	01	00
For return of every Writ of Appeal of Mur- der, Felony, or Maim—	00	01	00
And upon all Process growing upon the same, as <i>Venire facias</i> , <i>Tales</i> , <i>Habeas corpora</i> , and <i>Distringas</i> —	01	01	00
For every prisoner delivered by acquittal, or by Proclamation for every manner of Felony—	00	01	00
For a <i>Replevin</i> —	00	02	00
For the return of a <i>Recordare</i> —	00	00	04
For the return of an <i>Accedas ad cur</i> —	00	00	00
For the allowance of a <i>Superfedeas</i> after the return of the <i>Exigent</i> —	00	02	00

The Sheriff
is to be
compound-
ed and
agreed
with for
these.

For executing of a Writ to enquire of
waste.

Also for executing a Writ to enquire of
damages.

Likewise for executing a Statute.

For executing of a Writ of Right.

For serving of a Writ *de partitione faciend*.

For removing the over-charge of Com-
mon of pasture.

For enquiry upon an *Elegit*.

For Writs of forcible entry, or holding
with force, whereupon the party amoved
is to be restored to his possession.

For Execution of a Judgment upon a
Writ.

The

The Under-Sheriff of Middlesex useth to take these Fees following in the Court of Common-Pleas.

For a Warrant for a <i>Capias</i> , upon every name—	00	00	04
For the return of a <i>Venire facias</i> —	00	02	00
For a Warrant upon a <i>Capias</i> <i>utlag</i> —	00	00	04
For a return of a <i>Habeas corpora juratorum</i> —	00	04	00
For summoning the Jury, for every name—	00	00	04
For return of a Proclamation—	00	01	00
For return of a <i>Scire facias</i> —	00	02	00
For a return of a <i>Nihil habeat</i> , and <i>Fieri facias</i> —	00	01	00

For executing an Exigent, or Execution.

For executing an Exigent or Execution upon Body, Lands, Goods, and Chattels, twelve pence for every twenty shillings, where the sum exceeds not one hundred pounds; and six pence for every twenty shillings, where the sum exceeds one hundred pounds; that is to say, for every twenty shillings that he or they shall levy or extend, and deliver in Execution, or take the Body in Execution.

Of Sheriffs accompts, with a Particular of some usual Charges or Fees paid by them at the rendring of their Accompts.

THE Sheriff giveth his Accompts into the Exchequer, and there is charged with his casualties, which are all manner of debts of casualties, and Reliefs, Fines, Amerciaments upon the Sheriff, Debts recovered, and such-like as are drawn down either from any Record of any of the Remembrancers of the Exchequer, or from any other matter, ground, or seisure of the Court: and the Sheriff must answer to every sum charged upon him as he hath cause; that is to say, such a sum within such and such a Liberty, and sheweth whose they be.

He

The Sheriffs Account.

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He is charged with old seifures, which are Lands and Tenements seized before by his Predecessors, upon the Process of the Court; and likewise with his own Seifures, which are Lands and Tenements seized in his own time by process of the Court, and so addeth to these such Felons goods as he hath seized himself.

There the Sheriff hath such allowances as are allowed him by Act of Parliament, together with the Justices of Peace wages of his Shire out of the Fines and Forfeitures before the Justices of Peace thereof, If the Streat will bear them, laid out before the Sheriffs for the Justices wages, according to the Statute; of the which allowance, and of the particular names of the Justices, the forreign Apposer doth deliver a Roll into the Pipe, for the Clerk of the Pipes warrant to allow the same wages to the Sheriff. After which things done, viz. allowance of al payments, deductions, and annual charges, then hath he his *Quietus est*. The Fees are as follow.

Imprimis, To his Attorney for his warrant of Attorney, &c. for his own fees, and his mans fees, and to another for entering the warrant—02 00 02

To the Puny-Baron for ministring the oath, for the appoal upon the summons of the Pipe, his fee for the Vicontels, and his mans fee for the same—01 07 00

To the Marshal, Cryers, and Tipstaves there—01 06 00

The fees of the forreign Apposer and his men are—04 00 00

For his writ of assistance from his Attorney—00 05 06

His Attornys fees in the Pipe, and his mans fees—06 00 00

The fees of the Deputy of the Pipe—01 03 04

To the Controller of the Pipe, his man, and other Officers of the Pipe—02 15 02

His Attorneys fee in the Remembrancers Office, and his mans fee—00 06 10

To the Master of the Wardrobe for his fee, for a Talley, to have thereby an allowance given for it, and for joyning of that Talley in the Pipe—05 16 05

To the Master of the Pipe for his Fee—18 05 00

The

In the
Term of
S. Hillary,
on the mor-
row of Pu-
rification,
&c.

The Sheriffs Accompts.

The forreign Apposers fee for allowance of Justices wages to the Sheriff upon the extracts of the peace, and for the casting up of the *Dibt* upon the Schedules of the Green wax, and to his men for their Fee—02 18 04

To the Auditor assigned for the Shire for declaring of the accompt—12 00 00

To the Attorney of the Pipe for giving allowance of the Justices wages, before allowed by the forreign Apposer in the Sheriffs accompt, and for the foot of the accompt, and to his man—02 06 08

To the Baron for declaring of the accompt, and to his man for his fee—00 08 08

To the Attorney in the Remembrancers Office, for examining of the accompt, and to one for the receiving of the accompt—00 05 00

For Copies of the Seizures which the Sheriff makes himself in his year, commonly at the least—05 00 00

For Copies of the new Seizures, according to the number of them, in some Counties but twenty Shillings, but most commonly in *Yorkshire* to—02 00 00

For Petitions upon the account, for each—00 04 00

For another Writ of Assistance—00 05 00

For entering the view of the Accompt, and in the Alienation-Office for viewing of the accompt, and for a note of the charge there—00 09 08

For every Schedule of Issues upon general pardons, and to the Clerk of the extracts man—00 15 00

To a Baron for allowing of them, and to the Barons man—00 17 04

In the Alienation-Office for the making of the Bond and Acquittance, with the Schedules of Seizures against such as have sold land held of the King without license of Alienation—10 06 00

For a Warrant for a day to finish the accompt until *Misch. Term*—00 10 00

To the Attorney in the Pipe-Office for setting off from the Accompt six amerciaments, and to his man—01 10 00

For

The Sheriffs Accounts.

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For discharging the Amerciaments, and for a	
Warrant to set off and discharge	01 12 06
For another Writ of assistance	00 05 06
If the Sheriff cannot go through with his Account in Trinity-Term, then to the Marshal for liberty, and to his man	04 13 04
For ruling and making the Petitions, and to his man	09 00 00
To the Master of the Pipe for his fee	00 13 04
To the Controller of the Pipe for his fee, and to his man	02 12 00
The fee of the Attorney of the Pipe, and to his man	06 02 06
For the acquittrances of two Tallies in the receipt, and for striking off those Tallies	00 05 04
To two Auditors for casting up of the Sheriffs Account in Court, when he is to be cast out of the Court	00 10 00
To the Baron then, and to his men	01 07 00
To the Marshal, Tipstaves, and Cryers then	00 16 08
To the Clerk of the Pipe for Recusants, and for allowing and joyning of the Talley for Recusants debts	01 16 00
To the Baron for respects for Recusants debts	01 10 00
To the Clerk of the Pipe for Recusants for allowing of that Warrant, and to the Master of the Pipe for the same	00 13 04
To the Bag-bearer	00 01 00
For the <i>Quietus est</i> , to the Sheriffs Attorney of the Pipe, and to his man	04 06 08
For the <i>Quietus est</i> for the Recusants	01 00 00
<i>cum multis aliis, &c.</i>	

But the Sheriff is at much more charge, which is laid out, and is disbursed during his Sherifftwick, as experience will better inform him.

Q

The

The Return of a Devastavit.

EGo R.S. Vic. Com. Infranom. Justiciar. Infra mentionat. certifico quod infra nominat. A. B. ante advent. istius brevis devastavit, & ad usū suū propriū convertit diversa bona & catalla, quæ fuer. infra nominat. F. G. tempore mort. sue, ad valenc. debiti & dampnor. infra specificat. & quæ ad man. & possession. ipsius A. B. Executor. ejusd. F. G. Administ. devenerunt, ita quod debitum & damna præd. vel aliquā inde parcellā de bonis & catallis prædict. testator. præfat. F. G. levare seu fieri facere non potui : & ulterius certifico Justiciar. præd. quod infra nominat. A. B. nulla habet bona seu catalla de bonis & catallis suis propriis in balliva mea, unde damna præd. fieri facere possim.

R.S. Ar. Vic.

*The return
of a Nulla
bona & de-
vastavit by
Inquisition*

Infra nominat. A. B. nulla habet bona seu catalla quæ fuer. infra nominat. C. D. tempore mortis sue in manib. suis administrand. in balliva mea, unde fieri facere possim debitum & damna infra mentionat. vel aliquam inde parcel- lam, nec ulla bona seu catalla de bonis & catallis suis propriis in balliva mea, unde fieri facere possim damna prædicta, vel aliquam inde parcellam : Et ulterius certifico Justiciar. infra specificat. quod p. T. I. & E. R. probos & legales homines de balliva mea scire feci eidē A. B. quod sit corā Justiciar. prædict. ad diē & loc. infra content. ad ostendend. &c. prout interius mihi præcipitur.

Resid. execution. istius brev. patet in quadā Inquisitione huic brevi annex.

R.S. Ar. Vic.

Inquisitio indent. capt. apud. A. in Com. præd. 22 die Januarii, anno Regni Dom. Regis infra script. 14, coram me R.S. Vic. Com. prædicti, virtute brevis dict. Dom. Regis mihi directi, & huic Inquisition. annexi, per sacram G. H.

G.H. (and so to the number of twelve) proborum & legalium hominum de balliva mea, qui dicunt super sacram. suum, quod A.B. in præd. brevi nominat. devastavit & ad usum suum propriū convertit diversa bona & catalla quæ fuer. infra nominati C.D. tempore mortis sue, ad valenc. debiti & damnor. in eodem brevi specificat. & quæ ad man. ejusdem A.B. administrand. vend' In cujus rei testimonium, ram ego præfat. Vic. quam prædict. Jurator. huic Inquisition. indente. alternatim sigilla nostra apposulimus eisd. die & anno primo superscript.

R.S. Ar. Vic.

Virtute hujus brev. mihi direct. fieri feci de bonis & catallis infra nominat. A.B. integram summā 80 l. quos quidem denar. coram dom. Rege ad diem & locum infra mentionat. parat. habeo ad reddend. infra nominat. C.D. pro debito & damnis suis infra specificat. prout per hoc breve mihi præcipitur.

The return of a Fieri feci.

R.S. Ar. Vic.

Virtute istius brev. fieri feci de bonis & catall. infra nominat. A.B. ad valenc. 8 l. 16 s. 4 d. quos quidem denar. coram Dom. Rege ad diem & locum infra mentionat. parat. habeo ad reddend. infra nominat. C.D. in parte debiti & damnor. suor. infra specificat. Et ulterius dicto Dom. Regi certifico, quod præd. C.D. nulla al. vel plura habet bona & catalla in balliva mea, unde ad præsens fieri facere possim resid. debiti & damnor. prædict. secund. exigenc. istius brevis.

The return of a Fieri fac. where part of the debt is levied, and for the residue a nulla bona.

R.S. Ar. Vic.

Virtute istius brevis mihi direct. de terris & catall. infra nominat. A.B. cepi, videlicet, un. messuag. cum pertin. in C. in Com. meo N. modo in tenur. cujusdam C.D. quod prædict. A.B. tempore captionis ejusdem tenuit sibi & assign. suis pro quodam termino annorum qui nondum præterijt, ex dimissione, concessione, vel assignatione cujusdā R.B. ad valenc. 10 l. quæ quidem terr. & catall. adhuc remanent invendit. in manib. meis, pro defectu emp-

Another return of a Fi. fac.

Returns of Writs.

torum ratione cuius eisd. denarios coram Justiciar. Infra mentionat. ad diem & locum infra content. habere non possum, ad reddend. infra nominat. C.D. prout interius mihi præcipitur.

R.S. Ar. Vic.

The return of a writ where the Sheriff dieth after execution thereof, and so returned Justiciar. infra mentionat. certifico, quod post executionem. istius brevis, & ante retorn. inde E.L. Mil. nuper Vic. Com. præd. obiit, & quod hoc breve prout superius indorsat. & retorn. mihi R.S. Ar. modo Vic. Com. præd. de liberat. fuit per G.T. deputatum Vic. præd. E.L. nuper Vic. Com. prædict. *by the present Sheriff.*

R.S. Ar. Vic.

The return of an Ele- git, where lands are in the Kings hands. Justiciar. infrascript. certifico, quod terr. & tenementa quæ fuer. infra nominat. F.B. eodem die & anno infra mentionat. quo iudicium debiti & comporum infra specificat. reddit. fuit, sunt & adhuc existunt in man. Dom. Regis in Cur. sua Wardorum & Liberation. ratione quod R.B. Gen. tenens terrar. & tenementor. præd. adhuc. non prosecut. est liberation. terrar. prædict. extra Cur. prædict. Ideo ad execution. istius brevis procedere non possum, prout interius mihi precipitur.

R.S. Ar. Vic.

Inquisitio indent. capt. apud W. in Com. præd. sexto die Januarij anno Regni Dom. Regis nunc, &c. 14. coram me R.S. Ar. Vic. Com. prædict. virtute brevis dict. Dom. Regis mihi direct. & huic Inquisition. annex per sacram. M.P. (and so to the number of twelve) proborum & legalium homin. de balliva mea qui Jurati & onerati ad veritatem de & super præmissis in dicto brevi content. dicunt super sacram. suum, quod H.S. in dicto brevi nominat. seiscit. fuit in dominio suo, ut de feodo, 14 die Junij anno, &c. in eodem brevi mentionat. de un. capral. mess. cum pertina. & quinq; acr. terr. sex acr. prat. & octo acr. pastur. situat. & existen. in B. in Com. prædicto, clar. annual valoris in omnibus exitibus ultra reprimas 40 s. Et prædict. Jurator. ulter. dicunt super sacram. suum, quod præd. H.S. non habet al. vel plur. terr. sive ten. prædicto 14 die Junij præ-

præd. nec unquam postea, neq; ulla bona vel catalla temp. captionis hujus Inquisition. in balliva mea ad noticiam Jurator. præd. medietatem omnium & singulor. quor. quidem messuag. terrarum tenementor. & præmissor. videlicet, dict. capital. messuag. & præd. quinq; acras terr. & sex acras præ. ego dict. Vic. die captionis hujus Inquisitionis deliberari feci T.C. in dicto brevi etiam nominat. tenend. sibi præd. T. & assign. suis, tanquam liber. tent. suum, secund. formam Statuti in eo casu edit. & provis. quousq; debet. & damna in eodem brevi nominat. plenar. fieri fact. erit. In cujus rei testimonium, &c.

Otherwise, Quousq; dictus T.C. in dicto brevi etiam nominat. plenar. satisfact. erit de debito & damnis in eodem brevi nominat. In cujus rei testimon. &c.

R S. Ar. Vic.

Infra nominat. A.B. non est invent. in balliva mea. Resid. executionis hujus brevis pater in quadam Inquisition. indent. huic annexa.

*The return
of an Ex-
tent in the
Exchequer,
&c.*

R.S. Ar. Vic.

Inquisitio indent. capr. apud K. in Com. præd. [xxi] die Octobris anno Regni Dom. Regis nunc xliii, cor. me R.S. Ar. Vic. ejusd. Com. N. virtute brevis dict. Dom. Car. secundi Dei Gratia *Anglia, Scotia, Francia, & Hibernie* Regis, Fidei Defens. &c. mihi direct. & huc Inquisition. indent. annexi, per sacram. H.S. (*and so the number of twelve at least*) probor. & legallum hominum de balliva mea, qui jurat. &c. dicunt super sacram. suum, quod R.T. in præd. brevi nominat. xx die April. anno Regni Regis præd. xliii, in eodem brevi nominat. super quem dlem dict. R.T. devenit debitor dicto Dom. Regi infra mentionat. selsit. fuit in dominico suo ut de Feodo. de & in un. messuag. cum pertin. quinq; acr. terr. sex acr. prati, & octo acr. pastur. situat. jacen. & existen. in F. in Com. præd. modo in tenur. & occupatione I.G. vel assignat. suor. clari annual. valoris in omnib. exitibus ultra repressas x l.

M. ff.

Omina quæ quidem messuag. terr. & tenementa cum pertin. ego præfat. Vic. eod. die caption. istius Inquisition. cepi & seisiui in manus dict. Dom. Regis, prout per breve istud mihi præcipitur.

Et iidem Jurator. super sacram. suum dicunt, quod præd. R. T. ad diem caption. hujus Inquisition. in reversione f. isit. est (cum acciderit post mortē C. vid.) in Dominico suo ut de Feodo, de uno messuagio cum pertin. 6 acr. terr. quinq; acr. prat. & xii acr. pastur. situat. jacen. & existen in H. in dicto Com. N. & modo in tenur. & occupatione ejusd. C. Vic. Et quod prædicta C. Vid. nunc in vira existit adeo quod ad presens dict. messuag. terr. & premiss. in H. præd. sunt nullius valoris; sed post mortē ipsius C. Vid. clari annual. valoris fuerint in omnib. exitib. ultra reprisis 8 l.

Reversio cujus quidem messuag. terr. & premiss. cum pertin. in H. prædicta (cum acciderit) ego præfat. Vic. eod. die captionis hujus Inquisitionis cepi & seisiui in manus dict. Dom. Regis, secund. exigenc. istius brevis.

Et ulterius Jurator. præd. super sacram. suū dicunt, quod supra nominat. R. T. tempore caption. hujus Inquisition. fuit & modo possessionat. est de bonis & catallis separatim mentionat. & appreciat. in quadā Scedula huic inquisition. indent. annex. ut de bonis & catall. suis propriis; Et quod totus valor eorund. bonor. & catallor. est xls.

Que bona & catalla eod. die caption. hujus Inquisition. ego præfat. Vic. similiter in man. dict. Dom. Regis seisiui.

Et iidē Jurator. ulterius dicunt super sacram. suum quod eod. die caption. hujus Inquisition. R. I. de G. in Com. N. præd. *Woman*, indebitat. fuit supra nominat. R. T. in sum. integra vigint. librar. pro reddit. Ac etiam quod modo sunt in man. ejusd. R. I. diversa bona & catalla ejusd. R. T. scilicet, una longa tabula, &c. qua bona & catalla conjunctim sunt valoris xl s. Omnia quæ quidem reddit. vigint. librar. & bona & catalla valoris xl s. præd. ego præfat. Vic. eod. die caption. hujus Inquisition. similiter in man. dict. Dom. Regis, ut in man. ejusd. R. I.

Et

Et prædict. Jurator. præterea dicunt super sacram. suum prædict. quod infra nominat. R. T. nulla al. sive plura habet terr. sive tenementa ad prædict. diem quo devenit debitor sic ut prædict. nec unquam postea, neq; ulla al. sive plura bona & catalla habet tempore caption. hujus Inquisition. in balliva mea ad notitiam Jurator. prædictor. In cujus rei testimonium, &c.

R.S. Ar. Vic.

Virtute istius brevis mihi direct. p W.G. & E.D. probos & legales homines de balliva mea, scire feci R.W. infra nominat. fil. & hered. R.W. infra nominat. defunct. & W.R. & I.H. Gen. ter. tenen. diversor. terrar. & tenementor. in balliva mea. unde prædict. W.R. pater tempore vite sue fuit seiscit. In Dominico suo ut de Feodo in Craft. omnium animar. infra specificat. quod sint coram Justiciar. interius mentionat. ad diē & locum infra content. ad ostendend. &c. prout interius precipitur:

The return of a sci. fac. against the heir and ter-tenants where notice is given.

Pleg. de prosequend. $\left\{ \begin{array}{l} \text{Jo. Doo,} \\ \text{\&} \\ \text{Rich. Roo.} \end{array} \right.$

Summon. infra nominat. $\left\{ \begin{array}{l} \text{R. M.} \\ \text{\&} \\ \text{R. B.} \end{array} \right.$
H.W.

Et ulterius, virtute istius brevis 3 die Januar. anno infra script. publice proclamari feci secund. form. statuti & exigenc. istius brevis.

R.S. Ar. Vic.

The Oath of the Sheriff.

YOU shall swear, that you shall well and truly serve our
 Sovereign Lord the King in the office of the Sheriff of
 the County of *Yorkshire*, and do the Kingdom profit in
 all things that belongeth to you to do by way of your of-
 fice, as far forth as you can or may. You shall truly keep
 the Kingdoms right: you shall not assent to the decrease,
 or lessening, or to concealment of his Majesties rights, or
 of his Franchises: and whatsoever you have knowledge
 that his Majesties rights have been concealed or with-
 drawn, to be in Lands, Rents, Franchises or Suits, or any
 other things, you shall do your true power to make them
 to be restored to his Majesty again: and if you may not
 do it, you shall certifie his Majesty, his Council, or some
 of them thereof. You shall not respite his Majesties debts
 for any gift or favor, where you may raise them without
 great grievance to the debtors: You shall truly and right-
 fully treat the people of your Sherifftwick, and do right as
 well to poor as to rich, in all that belongeth to your of-
 fice: You shall do no wrong to any man for any gift, or
 other behest or promise of good for favour nor hate:
 You shall disturb no mans right: You shall truly acquit
 at the Exchequer all those of whom you shall receive any
 of his Majesties debts: You shall take nothing whereby
 his Majesty or the Kingdom may lose, or whereby the
 right may be letted or disturbed, and his Majesty or the
 Kingdom delayed: You shall truly return, and truly serve
 all his Majesties Writs as far forth as shall be to your cun-
 ning: You shall not have to be your Under-Sheriff any of
 the Sheriffs of the last year past: You shall take no Bailiff
 into your service, but such as you will answer for: You
 shall take Oath of your Bailiffs to make such oath as you
 make your self in that which appertaineth to their occupa-
 tion: You shall receive no writ by you nor any of yours
 unsealed, or any sealed under the seal of any Justice, sav-
 ing the Justices of Assize, or Justice assigned in the same
 Shire

The Oath of the Sheriff.

231.

Shire where you are Sheriff, or other Justices having power and authority to make any writs unto you by the Law of the Land, or of the Justices of *Newgate*. You shall make your Bailiffs of true and sufficient men in the County. Also you shall do all your power and diligence to destroy and make to cease all manner of Heresies and Errors, commonly called Lollaries, within your Bailiwick, from time to time to all your power, and assist and be helping to all the Ordinaries and Commissaries. You shall be dwelling in your own proper person within your Bailiwick for the time you shall be in the same office, except you be otherwise licensed by our Sovereign Lord the King: you shall not let your Sheriffwick, nor any Bailiwick thereof to any man: You shall truly set and return reasonable and due issues of them that be within your Bailiwick after their estate and behaviour, and make your pannels your self of such persons as be next most sufficient, and not suspect nor procured, as it is by the Statutes provided. And over this, in eschewing and restraint of man slaughters, robberies, and other manifold grievous offences that be done daily, namely, by such as name themselves Souldiers, and by other Vagrants, the which increase in number and multiply, so that the people of this Kingdom may not in safety ride nor go to do such things as they have to do, to their intolerable hurt and hinderance: You shall truly and effectually with all diligence possible to your power execute the Statutes, as the Statute of *Winchester*, and for *Vagabonds*. All these things you shall truly observe and keep, as God you help.

An

*An Indenture by a High-Sheriff, deputing one to
be his Under-Sheriff.*

THis Indenture made, &c. between A.B. of R. in the County of York Esquire, Sheriff of the said County, of the one part; and C.D. of W. in the said County, Gentleman, of the other part; witnesseth, That the said A.B. of assured hope, confidence and trust that he hath, that the said C.D. will honestly, uprightly, and sufficiently discharge the office and duty of Under-Sheriff, as well towards our Sovereign Lord the King, as all the people of the Kingdom of England, and therein discharge him the said Sheriff; and for the consideration hereafter mentioned, hath been pleased and contented to assign, depute, ordain, constitute and make, and by these presents doth assign, depute, ordain, constitute and make the said C.D. his Under-Sheriff of the said County of York, authorizing hereby the said C.D. according to the covenants and agreements by these presents contained, to execute, perform, and do all that which to the duty and office of Under Sheriff of the said County of Y. shall appertain, or to the Sheriff of the said County, without the personal presence of the said Sheriff may be executed and done, and also to receive and take to his own use, all manner of duties and lawful free commodities, profits and advantages to the same office belonging, or in any wise lawfully appertaining, during such time as the said A.B. shall continue Sheriff of the said County: in consideration whereof the said C.D. for himself, his Heirs, Executors, and Administrators, doth covenant, promise, and grant, to and with the said A.B. his Executors, Administrators, and Assigns, and every of them by these presents; That he the said C.D. shall and will during such time as the said A.B. shall continue, remain, and be Sheriff of the said County of Y. honestly, truly, and sufficiently execute and do the office and duty of an Under-sheriff in the said County of Y. and shall and will well and sufficiently do and execute for and in the name of the said Sheriff, all and every thing and

*A covenant
by the Under-
sheriff
honestly to
execute the
office, &c.*

And things concerning the office of the said Sheriff of the said County of Y. which without the personal presence of the said High-Sheriff may lawfully be done and executed, and thereof shall discharge the said High-Sheriff, his heirs, executors, and administrators.

And furthermore, the said C.D. for him, his heirs, executors and administrators, and every of them, doth covenant, promise, and grant to and with the said A.B. his heirs, executors and administrators, and every of them by these presents, that neither the said C.D. his servant, deputy, assignee, Clerk or Bailiff, by him to be assigned, shall or will by colour of his said office, deputation or assignment, extort levy, or receive any manner of thing or things which by the Laws, customs, or statutes of the Kingdom are or shall be prohibited, or not allowed, whereby the said Sheriff, his heirs, executors or administrators, or any of them may in any wise be either in their persons, goods, or lands, lawfully defamed, impeached, charged, impaired, molested, or troubled.

And that neither he nor his servant, &c. will do any thing contrary to Law in pre-judice of the Sheriff, &c.

And further, the said C.D. for himself, his heirs, executors and administrators, and every of them, doth covenant, promise, and grant to and with the said A.B. his heirs, executors and administrators, and every of them by these presents, That he the said C.D. shall and will assign and appoint sufficient Deputies and Attorneys in all Courts accustomed, as well to receive Writs, Warrants, Precepts and commandments to the said Sheriff to be directed, and to make process thereof, and to do all things and things for the executing, serving, and sufficient returning thereof: And also shall make and appoint a sufficient number of Deputies in all parts of the said County of Y. according to the Laws and Statutes of this Kingdom.

Covenant by the under-sheriff to appoint sufficient Deputies or Attorneys in all Courts, and Deputies in all parts of the County.

And he the said C.D. shall and will from time to time give reasonable notice and warning unto the said A.B. of all such things as shall be requisite and necessary for the said A.B. Sheriff of the said County, or by reason of his said Office in his own person to do or execute, and be done by him, in his proper person, and thereto will be

That he is to give notice to the High-Sheriff of all things to be done by him, in his proper person, and thereto will be

therein

therein at all times in his own person, or by his sufficient Deputy, shall be aiding and assisting as well for the doing and executing thereof, and the returning thereof : As also shall bear and pay all such charges thereof, as to the Sheriff by reason of the said office should appertain, except mans meat, and horse meat.

Covenant to receive all process, &c. to collect all fines, issues amerciaments, &c. and to pay the same, &c. and to acquit and discharge the Sheriff.

And also the said C.D. for himself, his heirs, executors, and administrators, and every of them, doth covenant, promise, and grant to and with the said A.B. his heirs, executors, and administrators, and every of them by these presents, that the said C.D. his heirs, executors, administrators or assigns, shall and will well and truly from time to time receive all such extracts and process whatsoever, wherewith the said A.B. as Sheriff of the said County of Y. is or shall be chargeable to receive, and that the said C.D. his heirs, executors, administrators and assigns, shall and will well and truly collect, levy, and gather all fines, issues and amerciaments, seizures, Fee-farms, rents, profits, certainties, Pipe-silver, Chiquer-silver, and all manner of debts, duties and demands whatsoever, wherewith the said A.B. as Sheriff of the said County of Y. his heirs, executors and administrators, their or any of their goods, chattels or lands may in any wise be charged, or chargeable, and the same to pay to his Majesties use at such times as the said A.B. is charged or chargeable to pay the same, and thereof, and of every party and parcel thereof, to acquit and discharge as well the said A.B. his heirs executors and administrators, and every of them, as also all and singular their and every of their goods and chattels, Mannors, Messuages, Lands, Tenements, and Hereditaments : And also that he the said C.D. his heirs, executors, administrators or assigns, shall and will from time to time, acquit and discharge, or otherwise sufficiently save and keep harmless the said A.B. his heirs, executors, administrators and assigns ; and also all his and their goods and chattels, lands, tenements, and hereditaments whatsoever, of and from all manner of execution or of executions of prisoners whatsoever which to the office of Sheriffwick shall appertain, forfeitures, fines, amerciaments, imprisonments, pains, penalties, or impositions whatsoever,

ever, to be charged, levied, or imposed upon the said *And that*
A.B. Sheriff of the said County of *T.* his heirs, execu- *he will*
tors, administrators or assigns, his or their, or either of *acquit,*
their goods or chattels, lands, tenements, or heredita- *&c. the*
ments, by reason of any misfeasance or non-feasance, Sheriff
omissions, default, delay, contempt, or cause whatsoever, from all
of the said *C.D.* his Deputy or Deputies, Attorney or At- *executions*
torneys, Clerk or Clerks, Bailiff or Bailiffs, or other *of prison-*
person whatsoever, not doing, or insufficient doing his or *ers, &c.*
their duty concerning the said office of Sheriff or Under- *And from*
Sheriff. And that neither he the said *C.D.* nor any of his *all for-*
Assigns, Deputies, Clerks or Attorneys, shall or will inter- *ferences, by*
meddle with the execution or returning of any Letters or *reason of*
Commandments from his Majesty or his Privy-Council, *any mis-*
without the privy, notice and direction of the said *A.B.* *feasance*
then first had : And the said *C.D.* for himself, his heirs, *or non-*
executors, administrators and assigns, and every of them *feasance,*
doth further covenant and grant, to and with the said *&c. of*
A.B. his heirs, executors and administrators by these pre- *him his*
sents, that he the said *C.D.* shall receive into his custody *Deputy,*
all prisoners to be committed to his charge, and them *&c. And*
safely and honestly shall keep, until they shall be *that he*
brought and delivered into the Gaol or Prison of the said *will not*
County, there to be safely kept by the Gaoler or Keeper *intermed-*
of the same Gaol or Prison, until by due course of Law they *dle with*
shall be delivered. And of such prisoners as shall be con- *the execu-*
victed or attainted, shall make, or cause to be made due *tion of any*
execution, according unto the quality of the judgment *Letters,*
against every of them to be pronounced. *&c. from*
the King,
or his Pri-

vy-Council. Covenant safely to keep the prisoners until they are delivered
to the Gaol, and to execute prisoners attainted.

And that the same *C.D.* shall and will within
six daies next before the beginning of every Term,
which shall be during the time of the said Sheriff-
wick, well and truly deliver and certifie unto the
said *A.B.* a true Note or Certificate in writing under
his hand of all such Writs of Execution whatsoever, as
before

That he wil before the Term shall be come to his hands, with the deliver a name and fir-name of the parry and parties for whom Certificate the said execution is to be done ; and also the name and of al execu- fir-name against whom the same is to be executed, and tions, and the sum and sums of money thereby severally to be levied of the ed, and what is done therein, upon every such Writ or names and Process.

sums to be levied, and what is done therein. Grant, that the under-sheriff may in the name of the sherif assign over any bond to be taken for appearance &c. and commence action upon such bonds to enforce the parties to appear. Covenant to save harmless the sherif from all costs recovered against him upon any such suit.

In consideration of all which premisses, the said A.B. is contented and pleased that the said C.D. shall or may in the name of the said A.B. assign and set over any bond to be taken in the name of the said Sheriff, for appearance or discharge of process to any person or persons, to the intent thereby to compel the parties to appear, to save and keep harmless the said Sheriff and Under-sheriff of any fine or amerciamment thereby : And also that the said C.D. may commence or take his action upon any such bond, for the inforcing the said parties therein bound to bring forth the party or parties, for whose appearance they were become bound, thereby to save himself harmless of such fine and amerciamments, as shall be imposed or laid upon the said Sheriff for not bringing forth the said party or parties ; all which suits being lawfully taken for the causes aforesaid, the said A.B. doth covenant and promise to avow and justifie, and that it shall be lawful to and for the said C.D. his executors and administrators, and also for the said assigns, to retain to their own use their said sum or sums to be recovered, by reason of the said Bonds, towards their charges and losses, be reason of the not appearance of the said parties ; so always that they and every of them, shall stand to the orders and directions of the said A.B. his executors or administrators for the over-plus thereof (if any shall be.) And the said C.D. for himself, his heirs, executors and administrators, and every of them, doth covenant and promise to and with the said A.B. his heirs, executors, and administrators, to acquit and discharge, or else to save harmless the said A.B. &c. of and from all, and all manner of costs and damages which may in any wise be awarded, adjudged, decreed or recovered against him or them by reason of any such suit.

Finally,

Finally, The said C.D. for himself, his heirs, &c. and every of them doth covenant, promise and grant, to and with the said A.B. his heirs, &c. and every of them, by these presents, that he the said C.D. his executors, &c. shall and will on this side the Feast-day of the Purification of our blessed Virgin Mary, which shall be in the year, &c. well and truly discharge and pay unto the Kings Majesty, his heirs, or successors, all such sum and sums of money, duties and demands, as shall be due unto his Majesty, his heirs or successors, wherewith the said A.B. shall be charged or chargeable as Sheriff; or by reason of the said office of Sheriffwick of the said County of York and thereupon within three moneths next ensuing, shall procure unto the said A.B. his heirs, &c. a sufficient discharge and *quietus est*, in full discharge of his said office and account.

Covenant by the under-sheriff to pay all sums due to the King, and to procure a Quietus est, &c.

Provided always, That if the said C.D. his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Deputy or Deputies, or any of them, at any time during the said office, shall commit, do, or suffer to be done, any manner of act or acts, thing or things whatsoever, or shall omit or leave undone any act or acts, thing or things whatsoever, belonging to the said office of Sheriff of the said County of York, or by colour of the said office, by reason whereof the said A.B. his executors, administrators, or assigns, or his or their goods or chattels, lands, tenements, and hereditaments, or any of them, may in any wise be charged or chargeable, above the sum of, &c. That then, and from thenceforth it shall be lawful to and for the said A.B. to grant, assign, and depute the execution of the said office of Under-sheriff, for the residue of the said time then to come, to any person or persons: And that then, and from thenceforth, it shall be lawful to and for such assignee and deputy, to have and take all the fees and commodities, profits and advantages, from thenceforth to the said office belonging, or in any wise appertaining; this Indenture, or any thing therein contained, or any other matter or cause concerning the assignment or deputation of the said Under-sheriffwick, in any wise notwithstanding.

Proviso, that if the under-sheriff, or his deputy, &c. shall do or leave undone any thing, &c. then it shall be lawful for the Sheriff to grant the office to another.

And

Covenant
by the
Sheriff
to deli-
ver can-
celled to
the under-
sheriff all
the secu-
rity gi-
ven by
him for
the execu-
tion of his
office,
within
three
moneths

after he shall have procured a *Quietus est*.

And the said *A.B.* for him, his heirs, &c. doth covenant and grant to and with the said *C.D.* his heirs, &c. by these presents, That he the said *A.B.* his heirs, &c. shall or will deliver, or cause to be delivered to the said *C.D.* his heirs, &c. to be cancelled, all such Bonds and Obligations, wherein any person or persons shall be, or stand bound for, or in the behalf the said *C.D.* to the said *A.B.* for, or in respect of the execution of the said office of the said Under-sheriffwick, or for the saving harmles of the said *A.B.* concerning the said office of High-Sheriff, within three months next after the said *C.D.* his heirs, &c. shall procure or deliver to the said *A.B.* his heirs, &c. a *Quietus est* out of his Majesties Court of Exchequer, for his discharge of the said Office, and the bond of the said *C.D.* to remain for the saving harmles of the said *A.B.* his heirs, executors and administrators, of amerciaments and other impositions touching the said office.

An agree-
ment be-
tween the
under-she-
riff, and one
E.F. and for
that purpose
the said *A.B.*
the Sheriff
hath secu-
rity: Never-
theless, for
the better
security the
sheriff doth
by these pre-
sents bind
the said
E.F. &c.

And whereas by an argeement made between the said *C.D.* and one *E.F.* Gentleman, whom the said *A.B.* hath appointed Under-sheriff for the County of York, it is acknowledged and affirmed by the said *E.F.* before the seal- ing of these Indentures, that the said *E.F.* his executors, E.F. and for administrators or assigns, is to pass the whole account of that purpose the said *A.B.* and to execute, levy, gather up, extend, bring the Sheriff in, and pay all such seizures, extents, process, Chequer-hath security the chargeable unto, or withal, as Sheriff of the said County of York at and according to the place and places, time and by these presents bind and perform; and thereupon shall also accordingly within six moneths next ensuing the time within limited, procure unto the said *A.B.* his heirs and assigns, a sufficient discharge, and *Quietus est* in full discharge of the said office and account.

And

And the said *A.B.* hath to that end also security of two thousand pounds from the said *C.D.* and his Sureties, for the performance of the like covenant amongst other covenants in the Indenture specified, which are made between the said *A.B.* and the said *C.D.* and yet notwithstanding the said *A.B.* for his better security doth by these presents bind and tye the said *E.F.* his executors, administrators or assigns, to the doing and performing of the same. Also the said *A.B.* is well pleased and contented, and for himself, his executors and administrators, doth covenant, promise, and grant to and with the said *E.F.* his executors, administrators, and every of them, that if the said *A.B.* his heirs, executors, administrators and assigns, shall or may be relieved, saved harmless, or indemnified for and concerning the fore-recited covenants and agreements, by the said *C.D.* his executors, and assigns, and his sureties, that then he the said *A.B.* his executors, administrators or assigns, shall or will not take any benefit or advantage of the said covenants and agreements against the said *E.F.* his heirs, executors, administrators or assigns, or any his sureties, or any of them. In witness whereof, &c.

Covenant by the Sheriff not to charge the said E.F. &c. if he may be saved harmless by the under-sheriff.

Or thus :

THis Indenture made, &c. in the year, &c. between *A.B.* of *R.* in the County of *Y.* Esq; (now High-Sheriff of the said County) of the one part, and *C.D.* of, &c. in the said County, Gentleman, of the other part. Whereas our Sovereign Lord the King, by his Majesties Letters Patents under the Great Seal of *England*, bearing date the seventeenth day of this instant *November*, hath made, nominated, constituted, assigned, and appointed the said *A.B.* to be High-Sheriff of the said County of *York*, during his pleasure.

R

Now

Presidents.

Now this Indenture witnesseth, That the said A.B. for the good opinion which he hath conceived of the said C.D. and of the trust and confidence which he repositeth in him, hath deputed, assigned, constituted and ordained, and by these presents doth depute, assign, constitute and ordain him the said C.D. to be his Under-sheriff, of, for, and in the said County of York, during all the time that he the said A.B. shall be and remain Sheriff of the said County, by force of the Letters Patents aforesaid; and doth hereby authorize the said C.D. to serve, exercise, and execute the said office of Under-sheriff of the said County under him the said A.B. in his name during all the time aforesaid. And the said A.B. as far as in him lies, doth also by these presents grant unto the said C.D. that it shall and may be lawful to and for the said C.D. by force hereof to appear, answer, and serve, and minister as Under-sheriff of the said County of York, for and in the name of the said A.B. as well in all places of the said County of York, as in all and every the Court and Courts within the Kingdom of England, and before all and every the Justices of Over and Terminer, Justices of Assize and Gaol-delivery, Justices of the Peace, Coroners, and Escheators, and other Officers and Commissioners of this Kingdom, where the said A.B. by virtue of the said office of Sheriffwick for the said County of York shall be bound, or ought to appear, answer, serve, or be attendant; and to break open, answer, return and execute for him the said A.B. in his name all process, writs, precepts, warrants, mandates, and commandments to the Sheriff of the said County, directed, or hereafter to be directed out of any the Courts aforesaid, or from any the Justices, Coroners, or Escheators aforesaid; and to do, perform, and execute for him the said A.B. and in his name, all and every thing and things, which by him the said A.B. by virtue of his office of Sheriffwick of the said County of York, is to be performed, executed, and done: saving always, and excepting the said C.D. shall not by virtue thereof be authorized to open, return, send, or execute any writ or writs for electing any Knights of the Shire, Burgesses of Parliament for the said County of York, or any Borough within the said County; nor open, execute, or answer any the Letters of the Kings Majesty, or the Council, to be directed unto the said Sheriff of

*Covenant
that the un-
der-sheriff
shall not ex-
ecute any
writs for
Knights for
the Parli-
ament; nor
open, exe-
cute, or an-
swer any
letters of
his Majesty
or the
Council.*

of the said County of *York*, without the special warrant, direction or commandment of him the said A.B. for that purpose.

And farther the said A.B. doth by these presents grant unto the said C.D. for the executing of the said office, all the fees duties, and profits to him due, arising and growing by the County-Courts to be kept within the said County of *York*, and all other fees, rewards, duties, allowances and profits incident to the office of Sheriffwick, or thereunto belonging, for which the said A.B. is or shall be allowed by the Common-Laws of this Nation, or Customs of the said County, either for the opening, returning, or executing of any Writ, Precept or Process, Warrant or Commandment whatsoever; or for other executing of the said office, and which have not been accepted heretofore, the ordinary fees of any other his Bailiffs or other Officers, to have and enjoy the said duties, fees, rewards, allowances and other profits to his own use, without an account to be rendred to the said A.B. his executors or administrators for the same.

Covenant that the under-sheriff shall receive all fees to his own use.

And the said C.D. for and in consideration of the benevolence aforesaid, and for the free gift and grant of the said A.B. doth for himself, his heirs, executors, administrators and assigns, and every of them, covenant, promise, grant and agree, to and with the said A.B. his heirs, executors, administrators, and assigns, by these presents, That he the said C.D. shall and will at all times from and after the day of the date of these presents, duly, diligently, lawfully and carefully serve the said A.B. as his Deputy and Under-sheriff, of, in and for the said County of *York*, without doing or committing any kind of extortion, or wilful mis-behaving of himself in the said office; and shall and will duly and respectively execute the said office of Sheriffwick, under the name of the said A.B. in all points, so far forth as these presents, the Laws of the Land, or other licence or commandment of the said A.B. shall warrant or give liberty; and shall and will in the name of the said A.B. and as his deputy in the said office of Under-sheriff of the said County of *Y.* be answerable, attendant and minister in all Courts of our Sovereign Lord the King by and before the said Justices of Assize, Justices of the Peace, and all Commissioners, Escheators, Coroners, and

Covenant to execute the office without committing extortion, &c.

*Covenant
to execute
and return
all process,
writs, &c.*

*Covenant
to save the
sheriff, &c.
harmless,
from all
fines, issues,
&c. for not
executing,
&c. any
writs, &c.
or other
misdemeanours.*

other officers of our Sovereign Lord the King, before whom the said *A.B.* shall be bound or required to minister, answer, or be attendant, in respect of the said office of Sheriffwick for the said County; and shall and will execute and make answer, true and sufficient return of all such process, writs, precepts, and commandments directed from his said Majesty, or from every and any of the said Courts, Justices, Commissioners, Escheators, and other officers aforesaid, as shall be delivered to, or come to the hands of him the said *C.D.* his deputy or deputies, assignee or assignees, or shall and will discharge and save harmless the said *A.B.* his heirs, executors and administrators, and his, and their, and every of their lands, tenements, goods and chattels, of and from all fines, issues and amerciaments, and other penalties, forfeitures, pains corporal and pecuniary whatsoever, whereby or where-withal the said *A.B.* his heirs, executors or administrators, or his or their lands, tenements, goods or chattels shall or may be charged or chargeable for his the said *A.B.* or the said *C.D.* not executing, not filing, neglecting, mis-executing, evil returning, not serving, mis-returning, or mis-filing any of the said writs, process, precepts, warrants, or commandments aforesaid; or for the absence, evil attendance, or not attendance of the said *A.B.* or of the said *C.D.* or his Deputy as aforesaid, or other misdemeanours in the executing, not executing, or mis-executing of the said office in any thing which the said *C.D.* might by vertue of these presents by himself or his deputies execute or perform, other then from such fines, issues, amerciaments, and other penalties as shall be imposed or adjudged upon or against the said *A.B.* for or in respect of any offence, fault or negligence by the said *A.B.* at any time after the day of the date of these presents committed, omitted, or done, or to be committed, omitted, or done by himself in his own person, or by any other, except the said *C.D.* by his the said *A.B.* his commandment or appointment, without the consent of the said *C.D.* and that the said *C.D.* shall himself, or his sufficient deputy or deputies duly and lawfully keep, or cause to be kept within the said County of *X.* all and singu-

singular County-Courts of the said County, at such time and places as heretofore hath been accustomed: and that he the said C.D. shall and will make and appoint one or more attorney or attorneys, deputy or deputies of Record in the Courts of Record, now commonly called the Kings-Bench, Common-Bench, and Exchequer, and in all other Courts and Offices wherein Attorneys are commonly appointed; and so shall and will ordain, appoint and make one or more able deputy or deputies for him the said A.B. in every hundred within the said County of Y. according to the Laws and Statutes in these cases provided, so that the said A.B. shall not hereafter be liable to any penalty or forfeiture for want of any such attorney or deputy; and shall and will at his own proper costs and charges appear, and make ready all such place and places where the assizes, Gaol-delivery, or Sessions shall be from time to time holden, meet and convenient Courts, Bars, and all other things necessary and convenient for the Justices of assize, and other Justices to keep their assizes and Gaol-delivery and Sessions in, and shall and will from time to time give notice in convenient time to the said A.B. of every such time and times, place and places, where the personal attendance of the said A.B. shall be requisite and necessary, so as the said A.B. may be personally present at such times and places, when and where his personal appearance and attendance shall be necessary.

Covenant to keep all the County at usual times and places, &c. And to appoint attorneys or deputies of Record in the Courts of Records; and constitute deputies in every hundred &c. Covenant to make ready at his proper charges, &c.

the places where the assizes, &c. shall be holden. And shall give notice to the Sheriff where his personal attendance shall be requisite.

And furthermore, that the said C.D. by and during the continuance of the said office, shall and will well and truly collect, levy, gather, and seize to the use of our Sovereign Lord the King all the goods and chattels of felons and fugitives, and all persons outlawed, and put in execution, and of all persons attainted and convicted of treason, murder or felony, which shall happen within the said County of Y. during the time aforesaid, which shall be due or forfeited to our Sovereign Lord the King by any ways or means aforesaid; and shall and will from time to time well and truly collect and gather up all

Covenant to collect and levy goods of felons and fugitives, &c.

And to collect and gather up all fines & amerciaments, which he shall have warrant to levy.

And shall accompt in the Court of Exchequer.

And finish the same accompt without any allowance of the Sheriff.

And shall pay into the Exchequer receipt all sums in arrearages; and shall obtain a Quietus est at the under-Sheriffs charges.

finer, amerciaments, extraits, certainties, fee-farms, pipe-silver for license, concord for fines, green-wax, and all other sum and sums of money, which to the collection of the said A.B. by reason of the Sheriffwick of the said County shall appertain or belong, and which the said C.D. shall have warrant or lawful authority to seize, levy, or collect, or which he shall have notice of, and may reasonably come by; and thereof, and of every part thereof, and of all other the issues and revenues of the said County and of all sums of money due, or hereafter during the continuance of the said office of Sheriffwick of the said County, doth or may appertain, shall and will to his Majesty in the Court of Exchequer aforesaid, yield and give just accompr, and also that he the said C.D. his executors or administrators, at such daies and terms as he the said A.B. is or shall be required to enter into accompr of the Court of Exchequer, for or touching the said office, the said C.D. shall and will enter into accompr in the said Court of Exchequer in the name of the said A.B. for and concerning the said Sheriffwick of the said County of Y. in and upon which accompr, the said C.D. his executors and administrators, shall and will truly answer all such debts, duties, and sums of moneys, as the said C.D. his deputies, officers, or servants, or any of the Bailiffs of any of the Hundreds of the said County shall have received, or might have received, or wherewith the said A.B. as Sheriff of the said County shall be any ways charged or chargeable with upon the same accompr; and the same accompr shall and will, at his the said C.D. his own cost and charges, prosecute with effect, until the same accompr be fully finished and concluded, without demanding any allowance or allowances of the said A.B. his executors or administrators for the same: and also that the said C.D. his executors and administrators shall and will pay into the Receipt of Exchequer all such sums of money as upon the said accompr shall be found in arrearages within one year next after the feast of St. Michael next ensuing the date hereof: and in the name of the said A.B. obtain a lawful discharge, and *Quietus est*, out of the said Court of Exchequer for him the said A.B. and the same shall and will deliver unto the said A.B. his heirs, executors, or assigns for a full discharge of him the said A.B. his heirs, executors,

tors, administrators and assigns, of and concerning the said Sheriffwick of the said County of Y. within one year next after the said feast of St. Mich. and that the said C.D. his heirs, executors, administrators and assigns, or some or one of them, shall and will, at some or one of their own proper costs and charges, disburse and pay for the said A.B. all and all manner of fees, duties, charges, sum and sums of money, rewards, gratuities, and demands whatsoever, which shall be required, demanded, or demandable of the said A.B. as due or accustomed to be paid or given by the Sheriff of the said County, for, or by reason of the said accompr, without demanding any allowance or allowances therefore of the said A.B. his heirs, executors, administrators or assigns: and the said C.D. doth *Covenant* further for the consideration aforesaid, for himself, his *that the* heirs, executors, administrators and assigns, and for every said C.D. of them *covenant, promise, grant, and agree to and with* shall truly the said A.B. his heirs, executors, administrators and *satisfie and* signs, by these presents, that the said C.D. his executors or *pay all* administrators, shall and will from time to time, and at all *sums of* times hereafter, well, duly, and truly satisfy and pay all *money as he* and singular such sum and sums of money as he the said *or any de-* C.D. or any deputy Clerk or Clerks, Bailiff or Bailiffs, *puty, &c.* Substitute or substitutes under him, shall at any time and *shall levy* times, and all times levy and receive, by vertue or reason *and receive* of any writ or writs, process of extent, *Liberate, Capias ad by vertue* satisfaciendum, Fieri facias, Elegit, Distringas nuper *of any writ* Vic' against any former Sheriff, or any other writ or process of writs of execution or warrants, whatsoever, according to *extent,* the purport and true tenure of any such writ or writs, *cap. ad sat.* warrant or warrants respectively, and in such manner as Fieri fac. by the same respectively shall be limited, required or ap- *Elegit &c.* pointed; and shall from time to time sufficiently save harm- *Covenant,* less and defend the said A.B. his heirs, executors and ad- *that the* ministrators, of, for, and from all and every such sum and *said C.D.* sums of money as aforesaid. *shall at his*

And further, he the said C.D. his heirs, executors, administrators or assigns, shall and will at his and their own proper costs and charges, conduct and safe delivery make *proper costs* of all such prisoners as are, or hereafter shall be in the cu- *conduct all* stody of the Gaol for the said County of Y. to such person *prisoners,* and persons, and to such place and places as the said A.B. *as shall be* required, *required,*

shall by writ, warrant, or other precept or commandment, or by vertue and in respect of his said office, be commanded or bound to deliver the same.

And shall at his proper charges execute all persons convicted And further, shall and will also at his and their own proper costs and charges execute, or cause to be executed, all such persons as at any time during the time aforesaid, shall be convicted, and put in execution, according to their several judgments, if the same person or persons be not by any lawful authority reprieved in the said Gaol.

and put in
execution.

Covenant
that C.D.

shall deli-
ver by in-

denture:
to the suc-

cessor of
A. B. all

prisoners
then in

the custo-
dy of A B

And also
all write

process,
accidents

and other
things

things
which
shall be

shall be
in his
company

custody in
respect of

And the said *C.D.* doth further for himself, his heirs, executors, administrators and assigns, and every of them, covenant, grant, promise and agree to and with the said *A.B.* his heirs, executors, administrators and assigns by these presents, that he the said *C.D.* his executors and administrators, shall and will upon the discharge and giving up of the said office to such as shall succeed in the said office of Sheriffwick, of and for the said County of *Y.* in due form of Law deliver, or cause to be delivered by Indenture to be made between the said *A.B.* and his Successors in the said office, to the said Successor of the said *A.B.* in the said office, or to his deputy for the time being, all such prisoners as then shall be in the custody of the said *A.B.* or any of his Deputies or Ministers, with the causes of their detrainments and imprisonments, and all such iron implements and things as shall be in the custody of the said *C.D.* belonging to the common Gaol of the said County, or to the officers of the same : and also all writs, process, warrants, and other things which then shall be in his hands and custody, in respect of the office of Sheriffwick, of, in, and for the said County of *Y.*

And the said C. D. doth further for himself, his heirs, executors, administrators and assigns, covenant, promise, grant

gañt and agree to and with the said *A.B.* his heirs, executors and administrators by these presents, that he the said *C.D.* his heirs, executors or administrators, shall and will from time to time, and at all times hereafter, discharge, defend, and save harmless as well the said *A.B.* his heirs, executors and administrators, and his and their lands and tenements, goods and chattels, as well against the King, and all others whatsoever, of and from all manner of pains corporal and pecuniary, forfeitures, fines, amerciaments, debts, accounts, duties and demands whatsoever hereafter lawfully to be commenced, prosecuted, imposed, demanded or demandable of or against the said *A.B.* his heirs, executors or administrators, or his or their lands, goods, tenements and chattels, for or by reason of any escape of any prisoner or prisoners whatsoever, now under execution or under arrest, or hereafter to be had in execution or under arrest, for any manner of debt, damage, trespass, account, or other duties or wrong; or for any treason, felony, or other offence whatsoever, or for any other, or by reason of not appearance of any person arrested at the day limited for the appearance in any Court or Courts, or before any Judge or Judges, or Justices whatsoever, or for or by reason of any false return, not return, or mis-return of any writ, warrant or process, or for any other misbehaviour, negligence, or laches of the said *C.D.* his bailiffs or officers in executing, or negligence in executing, or in not execution of the said office of Sherifffick for the said County of *Y.* of, or for, or by reason of the not levying, answering, or not paying of any sum or sums of money, which shall, or may, or ought to be collected or received, by vertue or by reason of the said office of the Sherifffick of the said *A.B.* or having relation thereunto, or by reason of any writ or writs of assistance for the levying of any sums of money wherewith the said *A.B.* shall or may be charged or chargeable, of, or for any matter, clause, or thing having relation to the said office; and to the intent that the said *C.D.* may the better perform the execution of the said office, the said *A.B.* is contented and pleased, and doth hereby grant unto the said *C.D.* that he the said *C.D.* shall have to his own

Covenantto discharge A.B. &c. and his goods, &c. from all manner of pains, forfeitures, fines, &c. for or by reason of any escape of any prisoner, or for not appearance of any person arrested at the day limited, &c. or for any false return, not return, or mis-return, of any warrant, &c. or for negligence of the said office, by reason of the not levying, answering, or not paying of any sums of money, &c.

Grant, that own use the benefit of such bonds and covenants as shall the said be taken of any person or persons, wherein the same per- C.D. shall son or persons shall become bound unto the said A.B. as have to his Sheriff of the said County of Y. with condition for their, own use the or any of their appearance in any Court, or elsewhere, benefits of before any Commissioners of his Majesty : and of all obli- Bail-bonds gations taken, or to be taken of any Bailiffs, or their sure- and bailiffs ties ; and of all other bonds and covenants which are or bonds and shall be made to the said A.B. as the Sheriff of the said all other County of York (except the covenants herein contained) bonds and and the bonds and obligations taken, or to be taken for covenants the performance of the said covenants, and every of them which are (except before excepted) and shall and may sue and pro- or shall be secute the same in the name of the said A.B. his execu- made to the tors and administrators, at the proper costs and charges said A.B. of the said C.D. his executors, administrators and assigns, except, &c. and the moneys thereof and thereby recovered, to have, take and detain, to his and their own use and uses, with- out any account thereof to yield or make to the said A.B. his heirs, executors, administrators or assigns ; all which said bonds and covenants (except before excepted) he the said A.B. doth for himself, his heirs, executors, admini- strators and assigns, covenant, promise, grant and agree to and with the said C.D. his executors and administrators, by these presents, that neither he the said A.B. nor his heirs, executors or administrators, or any of them, shall re- lease, acquit, nor discharge the said bonds or covenants, nor any action, plaint or suit thereupon to be brought, or any judgment or execution thereupon to be had, without the assent of the said C.D. his executors, administrators or assigns, unless the said A.B. his heirs executors or admini- strators shall be enjoined thereunto by order or course of Law or Equity.

*Covenant
that C.D.
shall keep
harmless*

*A.B. his,
&c. of and
from all
costs and
charges
and dama-
ges, &c.* And the said C.D. doth for himself, his heirs, executors and administrators, covenant, promise and grant, to and with the said A.B. his heirs, executors and administrators, by these presents, that he the said C.D. his executors and administrators, shall and will from time to time, and at all times hereafter, save, defend, and keep harmless the said A.B. his heirs, executors and administrators, and his and their lands, tenements, goods, and chattels, of and from

from all costs, charges, and damages which may arise and happen, by reason of any bill in Equity, or of any non-suit or judgment obtained by any person or persons of, or upon any of the said covenants, obligations, or bond to be taken for appearance as aforesaid; or by reason or means or removing any action or suit in the name of the said A. B. his heirs, executors or administrators, against any person or persons upon the same covenants, obligations, or any of them.

And whereas it is agreed by and between the said parties to these presents, that the said C. D. shall become bound by obligation to the said A. B. in the penal sum of 500 l. conditioned for the true performance of the covenants, articles, and agreements in these presents contained, on the part and behalf of him the said C. D. his heirs, executors and administrators to be performed, and shall also produce five sufficient sureties, before the thirtieth day of January next ensuing the date hereof, to become bound unto the said A. B. in the several penal sums of 100 l. apiece, with the like conditions as aforesaid.

Bond to perform the covenants.

Now the said A. B. is contented and pleased, and doth by these presents for himself, his heirs, executors, administrators and assigns, covenant, promise, and grant to and with the said C. D. his heirs, executors, administrators and assigns by these presents, that he the said A. B. his heirs, executors or administrators, or some or one of them, shall and will within the space of one year next after the said C. D. his heirs, executors or administrators, deliver or cause to be delivered unto the said A. B. his heirs, executors, administrators or assigns, the said *Quietus est* before in these presents mentioned, the said A. B. his heirs, executors and administrators being first sufficiently and reasonably discharged and saved harmless of and from all the payments, penalties, fines, amerciaments, damages, dangers, and other demands before in these presents mentioned, upon the reasonable request of the said C. D. his heirs, executors or administrators, shall deliver or cause to be delivered up the said obligations so to be made by the sureties of the said C. D. as aforesaid, to such Surety or Sureties respectively, and to their respective heirs, executors or administrators, to be cancelled. *In witness whereof,*
&c.

A. B. grants to C. D. that A. B. within the space of one year after Quietus est shall deliver up the obligations made by the sureties of the said C. D. &c.

The

The form of the Condition.

THe Condition, &c. That whereas our Sovereign Lord the King, &c. by his Letters Patents bearing date the &c. in the year of our Lord, &c. did appoint, nominate, and make the within named *A.B.* High-Sheriff of the County of *York*, which said *A.B.* afterwards by his Indenture bearing date, &c. did ordain, depute, constitute, and make the within-bounden *C.D.* his deputy and Under-Sheriff of the said County of *Y.* as by the same Indenture more plainly at large doth and may appear : if the said *C.D.* his heirs, &c. and every of them do at all times hereafter, and from time to time, for ever clearly acquit, exonerate, and discharge, or otherwise sufficiently save and keep harmless the said *A.B.* his heirs, executors and administrators, and every of them, and his and their goods, chattels, lands, tenements, possessions and hereditaments, and every of them, of, and from all and every of the sum and sums of money wherewith the said *A.B.* shall be charged, by reason of the said office of Sheriff-wick, and shall fall out not to be answered upon the accompt ; and of and from all action and actions, plaint or plaints, debt or debts, that shall be commenced against the said *A.B.* his heirs, &c. by reason of any escape or escapes committed, of any prisoner or prisoners arrested, and not committed to the common Gaol of the said County, or afterwards by the act or negligence of the said *C.D.* or any the bailiff or bailiffs, or any his servants or deputies, and of and from all actions, suits, costs, losses, damages, hinderances, and demands whatsoever, which shall or may at any time or times hereafter come, grow, or be to or against the said *A.B.* his, &c. or his or their goods, chattels, lands, tenements, possessions and hereditaments, and every or any of them, for, or by reason of the premises, or any of them ; That then this present Obligation, &c.

Or,

Or thus.

THe Condition, &c. That whereas the above-named *A.B.* Sheriff of the County of *Y.* hath assigned and deputed the above-named *C.D.* his Under-Sheriff: If therefore the said *C.D.* the above-bound *E.F.* and *H.I.* their heirs, executors and administrators, and every of them, do at all time and times hereafter, save and keep harmless and indemnified as well the said *A.B.* his heirs, executors, administrators and assigns, and every of them, as also the lands, tenements, hereditaments, goods and chattels of the said *A.B.* of, for, touching and concerning the returns and executions of all such process, writs and warrants, of what nature soever they be, as are or shall be directed to the Sheriff of the said County of *Y.* and shall be brought and delivered, or offered to be delivered to the said *C.D.* during the time that the said *A.B.* shall be Sheriff of the said County; and of and from all issues, fines and amerclaments which shall happen to be imposed or taxed upon the said *A.B.* for and concerning the not executing, wrongful executing, or detaining in his hands any writs, process, or warrants, and of, for, and concerning all escapes of all and every person or persons that shall be arrested or apprehended by virtue of any such process, writ or warrant, during the time that the said *A.B.* shall continue Sheriff of the said County of *Y.* And also if the said *C.D.* *E.F.* and *H.I.* their heirs, executors and administrators, and every of them, shall save harmless and indemnified the said *A.B.* and his heirs and assigns, and his and their lands, goods and chattels, of, for, or concerning all such accompt and accomps as the said *A.B.* is or shall be charged withal as Sheriff of the said County of *York*, to our Sovereign Lord the King, his Heirs or Successors, in any of his Majesties Courts,

Courts, and of all sums of money which shall be levied or received by the said C.D. as Under-sheriff of the said A.B. or any bailiff, or other person, by the direction or assent of the said C.D. to the use of our Sovereign Lord the King, his Heirs or Successors : That then, &c.

But they are commonly made as all other Bonds are for the performance of Covenants, in this manner :

THE Condition, &c. That if the above-bouden C.D. do well and truly observe, perform, fulfil, and keep all and singular covenants, grants, articles, payments, promises and agreements, which on the part and behalf of the said C.D. his heirs, executors, &c. or any of them, are to be observed, performed, fulfilled, or kept, contained, written, declared, or specified in one pair of Indentures bearing date, &c. made between the said C.D. of the one party, and the within-named A.B. of the other party, according to the tenure, purport, true intent and meaning of the said Indentures : That then, &c.

An Indenture for the setting over of Prisoners and Writs between two Sheriffs.

THIS Indenture made the tenth day of December, in the year, &c. between A.B. Esquire, late Sheriff of the County of York, of the one part, and C.D. Esquire, now Sheriff of the said County, on the other part ; *Witnesseth*, That the said A.B. by vertue of his Majesties Writ of discharge of his late office to them directed, hath delivered and set over unto the said C.D. these Writs following; that is to say, a *Capias* against L.M. returnable in 8 days of St. Hillary, at the suit of N.O. &c. together with the bodies of E.F. in execution at the suit of I.H. for a debt of an hundred pounds ; and G.R. at the suit of R.S. in execution for forty pounds ; and W.P. in execution as well at the suit of S.I. for a debt of ten pounds, as also at the
suit

suit of T.W. for a debt of thirty pounds, &c. In witness
whereof, &c.

An Indenture of the Knights of the Parliament.

HÆc Indentura fact. in pleno Com. Ebor. tent. apud Castr.
Ebor. in Com. prædicto die lune vicesimo tertio die
Octobris anno Regni Dom. nostri Caroli secundi Dei gratia
Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis, Fidei Defen-
soris, &c. 14, inter A.B. Ar. Vic. Com. prædicti ex una parte,
& C.D. Ar. E.F. Ar. G.H. Ar. &c. & mult. al. person. Com.
prædict. & Elector. duor. Milit. ad Parliament. in breve huic
Indentur. consut. specificat. ex altera parte, qui ut major pars
totius Com. prædict. tunc ibidem existen. jurat. & exami-
nat. secund. vim, formam & effectum diversorum Statut. in-
de edit. & provis. elegerunt R.S. & T.W. Mil. infra Com.
prædict. commorantes, gladiis cincti. Milites habiles, &
magis idoneos & discret. dantes & concedentes prædictis
duobus Milit. plenam & sufficient. potestatem pro se & toto
Com. prædicto ad faciend. & consentiend. hijs que ad
Parliament. in dict. brevi content. de Comm. Consil. Regni
dict. Dom. Regis nunc Angl. contigerit ordinari super ne-
gotiis in dicto brevi specificatis. In cujus rei testimonium
uni parti hujus Indentur. penes dict. Dom. Regem remanen.
partes prædict. sigilla sua apposuerunt; alteri vero parti ejus-
dem Indent. præd. Vic. sigillum suum apposuit. die Dat. anno
& loco supradict.

*An Indenture upon chusing of a Burges to serve
in Parliament.*

HÆc Indentura fact. &c. inter A.B. Ar. Vic. Com. Ebor.
ex una parte, & Burgeses Burgi & Vill. de S. &c. ex
altera parte, Testatur, quod prædict. Burgeses secund. pro-
clamationem per eundem Vic. fact. pro eligend. Burges.
in

Presidents.

in quolibet Burgo sive Vill. infra dict. Com. die dat. harum. Indentur. apud S. eligerunt, nominaverunt, & constituer. C.D. & E.F. Ar. Burghenses ejusdem Vill. de S. ad observand. advisament. & consil. dand. ad supremam Cur. Parlam. Majestatis sue prædictæ tenend. apud Westm. vicesimo secunda die Augusti prox. sequen. dat. harum presentium. In cujus rei testimonium præfat. Burghens. & Municipis his presentib. indentur. sigill. sua apposuer. & nomina sua subscrips. &c.

A Condition for the executing of a Gaolership.

THe Condition, &c. That if the within-bounden C.D. his executors and assigns, do well and truly execute and use the office of Gaolership at the Castle of York for the said County, and also do well, surely, and safely keep all and every such person and persons now being in the prison of the Kingdom of England in the said County of Y. or that hereafter shall be committed to the said Gaol, or to the said C.D. and further, that if the said C.D. his executors or assigns, at his or their proper costs and charges, do safely carry, bring, and re-carry all persons in the said Gaol now being, or that at any time hereafter shall be prisoners there, to any such place or places as the said Sheriff or his assigns shall appoint or name within the said County of Y. and furthermore, be truly diligent and attending, aiding and assisting the said Sheriff, and his Under-sheriff and deputies, at all and every time and times when any execution shall be done within the said County, to, and upon any person or persons attainted, or to be attainted for treason, felony, murder, or heresie, or otherwise, or for any other cause, unto the end of the execution: and further, if the said C.D. his executors and assigns do discharge and save harmless the said Sheriff, his heirs, executors, administrators and assigns, against our Sovereign Lord the King, and against all and every other person and persons, and from all manner of escapes, damages and losses, fines, issues, and amerciaments, which by the negligence or otherwise of the said C.D. his executors or assigns,

signs, that the said Sheriff shall or may in any wise be charged, or incumbred with, or ought to be charged by the Law, by reason of the office, of the Sheriffwick of the said County from time to time, and do content and pay to the said Sheriff, his Executors or Assigns, all such sum and sums of money, as the said Sheriff, his Heirs, Executors or Assigns, ought to pay to his Majesty, or to any other person or persons, or be due to the said Sheriff, by reason of the said Office of Gaolership That then, &c.

Or thus :

THE Condition, &c. That if the above bounden A.B. Gaoler to the said Sheriff of the County of York, do from time to time receive and take into his ward and custody within the Goal at the Castle of York, in the County of York aforesaid, all such person and persons, prisoner and prisoners, which shall be committed or sent to the said Goal, or committed to the ward and custody of the said Gaoler, by the said Sheriff or his Deputy, or by any Justice or Justices of Peace, or by any other having lawful authority to commit persons or prisoners to the said Goals and the said persons and prisoners so committed as aforesaid, do well and truly, duely and sufficiently by his own proper person, or by his sufficient Deputy or Deputies, so keep, that the said Sheriff, his Heirs and Executors; and all the Lands, Tenements, Goods and Chattels of the said Sheriff be saved harmless from all losses, penalties, amerciaments and damages whatsoever, as well against our Lord the King, as also against all other person and persons, of, for, and concerning the custody and keeping of the said Goal and Prisoners within the said Castle of York, and likewise do charge, save and keep harmless the said Sheriff, his Heirs and Executors, and all those his Lands, Tenements, Goods and Chattels from time to time, and at all times hereafter, of and from all and every Escape and Escapes, as well of convict persons, Reprieves, and Felons, and of all other persons now committed for any contempts, condemnations, trespasses, or misdemeanours which may happen, or chunc hereafter to be committed to the said Goal, for any the causes aforesaid, during the time the said C.D. shall be Sheriff of the County of York, and likewise that the said A.B. or any other by his

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con-

consent, privity or appointment, in any wise let it to bail or mainprize, any prisoner or prisoners, to him committed as aforesaid, notailable by the Laws of the Nation, without the special commandment or appointment of the said Sheriff; And if the said A.B. or his sufficient Deputy, be ready to give his attendance upon the said Sheriff and his Deputy at all times necessary and convenient, and all and every lawful thing and things that he shall be required to do by the said Sheriff or his Deputy touching or concerning the, &c. affairs and business wherewith the said Sheriff is, or shall be charged or employed, in or about the keeping of the said Gaol or Prison, That then, &c.

Articles betwixt the High-sheriff, and a Bailiff of a Wapentake, or Hundred.

ARTICLES of Agreement indented and made the tenth of March, in the year, &c. Betwixt A.B. of R. in the County of Y. Esq; High-sheriff of the said County, of the one part, and C.D. of B. in the said County, Gent. of the other part.

To be Bailiff during the pleasure of the Sheriff. *whereas* the said A.B. by his deputation under the Seal of his Office, hath constituted and appointed the said C.D. to be his Bailiff within the Wapentake of *Ewerof*, to execute and enjoy the same Office only during the pleasure of the said A.B. Now it is covenanted and agreed between the said parties, and the said C.D. for himself, his *Executors, Administrators, and Assigns*, for the consideration aforesaid, doth covenant and grant unto and with the said A.B. his Heirs, Executors and Administrators in manner following:

To execute and return writs. *First*, That the said C.D. shall and will during such time as he shall execute the said Office, well and sufficiently perform and do whatsoever to the said Office belongeth, as well within the said Wapentake as without; And shall with speed and secrecy serve and execute, or cause to be served and executed all and every precept and warrant to him directed by the said High-sheriff or Under-sheriff. And shall make a true return thereof to the said Under-sheriff or his Deputy, by the space of four days before the respective returns thereof: And shall likewise from time to time save and keep harmless the said High-sheriff, his Heirs,

Heirs, Executors and Administrators, Lands, Tenements, Goods and Chattels, of and from all Escapes, Amerciaments, Fines and sums of money, or other charges and incumbrances whatsoever, which shall or may be imposed or happen upon the said High-Sheriff, for or concerning the executing, or returning of them, or any of them.

2. *Item*, That he the said C.D. his Executors or Assigns, shall well and truly pay, or cause to be paid to the said Under-sheriff or his Assigns at his Office in the City of *Y.* or elsewhere, the Blank-farme due to his Majesty within the Wapentake, within 6 days next after the Annunciation of the blessed Virgin Mary, and Michael the Arch-Angel, by equal portions; and shall likewise at his own proper costs and charges faithfully and truly levy, collect and gather all and every sum and sums of money of what nature soever within the said Wapentake, as are, and shall from time to time grow due and payable to his Majesty, or which are and shall be within the charge of the said Sheriff, and estreated, and given in charge to the collection of the said C.D. or his Assigns; and shall within three weeks next after any Estreat or warrant to him directed for the levying and collecting thereof, pay, or cause the same to be paid unto the said Sheriff or his Deputy at *Y.* or elsewhere, or make his personal appearance there to give a just account, for what cause he hath not collected nor levied the same.

He shall truly pay to the Under-sheriff the Blank-farm within the said Wapentake, and levy all money within the said Wapentake due to the King

3. *Item*, That the said C.D. shall diligently enquire of the goods and chattels of Felons and Fugitives, and of all persons outlawed and condemned, and of goods and chattels waived, estrayed, and escheated within the same Wapentake. And of the same shall lawfully make inventory and seise into his Majesties hands, as Bailiff of the said Wapentake; and shall likewise truly account for, and deliver, or cause to be delivered unto the hands of the said Sheriff or his Deputy the goods so seised and inventoried, within one month next after such seisure and inventory made.

To secure goods waived and forfeited.

4. *Item*, That the said C.D. shall from time to time give lawful summons and warning to all such persons, Jurors, and Free-holders, as shall from time to time by warrant from the said High-Sheriff or Under-sheriff, be appointed to appear before his Majesty, his Justices of Assize or Goal-delivery, Justices of the Peace, or before any other person or persons, having any lawful authority to sum-

To summon Jurors.

mon the same persons, and that he himself shall personally attend at the same Assize and Gaol-delivery, Sessions of the Peace, and at the Common-Court, to make his returns, and do all the services belonging to the Bailiff of a Wapentake, if he be in health, or able to perform the same, or otherwise by his sufficient Deputy to be allowed under the High-sheriff's seal of Office.

To make a
book of
Free-hold-
ers. And
shall save
harmless the
Sheriff from
all issues
and Amer-
ciaments,
&c. for not
returning
or mis-re-
turning of
any Free-
holder.
To secure
persons ar-
rested.

5. Item, That he the said C. D. shall before the 12th day of January next coming, deliver or cause to be delivered unto the hands of the said High Sheriff, or Under-sheriff, one Paper-book fairly written, containing the names, surnames and additions, together with the dwelling places of all such Free-holders as are now dwelling and resident within the said Wapentake of Ewecross, and shall likewise save and keep harmless the said Sheriff, his Lands and Tenements, Goods and Chattels, of and from all Issues and Amerciaments which shall or may be charged upon them, or any of them, for and by reason of returning, not returning, or mis-returning of any Free-holder or Free-holders by the said C.D. or his Deputies.

To secure
goods le-
vied.

6. Item, That the said C.D. his Deputy or Deputies, shall bring or cause to be brought to the Castle of Y. all such person and persons, as shall by them or any of them be arrested by virtue of any warrant or warrants, upon any *Capias utlagatum*, or *Capias ad satisfaciendum*: And that likewise upon all arrests of persons bailable take sufficient bond with two sureties, for their appearance at the return of the Writ, and the said Bonds so taken shall deliver unto the Under-sheriff or his Deputy, by the space of six days before the respective days of their several appearances,

7. Item, That neither the said C.D. nor any of his Deputies make any sale of any goods by him or them, or either of them, seized or taken for any of his Majesties debts, or upon any execution between party and party. Nor shall detain or keep in his or their hands any goods so taken by the space of four days, but shall bring, send or deliver the same unto the said Under-sheriff, his Deputy or Deputies, with a true Copy of their appraisements, and the names of the appraisers, in case the owners or some friends for them shall deny to take them as they are appraised, or to pay the debts and sums for which they were so seized and taken, together with the reasonable charges expended concerning the same.

8. Item,

8. *Item*, That the said C.D. his Deputy and Deputies and every of them shall and will from time to time within six days after notice or command to him or them given by the said High-sheriff or his Deputy, repair and come to his Office at 7. or elsewhere, and then and there make a just and perfect account, for and concerning all Fees as well for Arrests and Perquisites of Courts, as for all other dues and profits unaccountable for whatsoever, and which he and they or any of them, shall have received and taken, during such times as he the said C.D. shall continue Bailiff of the said Wapentake, which of right belongeth unto his Majesty, or the said now Sheriff, or his Under-sheriff. And the said High-sheriff, or Under-sheriff, upon his true account so to be made by the said C.D. shall return unto him the said C.D. all the over-plus of the said sum so deposited by the said C.D. to the said High-sheriff or his lawful Deputy, as shall remain in his the said Sheriffs hands after the perfecting of the said account.

*To account
for and pay
Fees due to
the Sheriff.*

9. *Item*, That he the said C.D. shall after the several general Assizes and Goal-delivery, and Sessions of the Peace, be present and ready in his own person, safely to carry and conduct the prisoners condemned to the place of Execution, and not to depart thence without licence from the High-sheriff, or his Under-sheriff; and shall likewise from time to time so often as he shall be thereto required by the said Sheriff, Under-sheriff, or his Deputies, be ready to aid and assist them or any of them, for the apprehending of any Traytor, Priest or Felon, or for any other matter or thing whatsoever, concerning his Majesties service within the said County. *Is witness whereof, &c.*

*To attend
the Execu-
tion of Pri-
soners, Tray-
tors, &c.*

The Bond for the performance of these Articles is ordinarily made as all other bonds are for the performance of Covenants.

A Bond entred to a Sheriff for ones Appearance in the Common-Bench.

NOverint universi per presentes nos A.S. de S. in Com. Ebor. Gen. C.D. de R. in dict. Com. Ar. & B.F. de T. in Com. pradiqt. Teoman, teneri & firmiter obligari G.M. Ar. Vic.

Presidents.

com. præd. in 30 l. bonæ & legalis moneta Angliæ solvend. eidem G. M. aut suo certo in hac parte Attorn. Executor. vel Assign. suis Ad quam quid. solution. bene & fidelit. faciend. obligamus nos & quemlibet nostr. per se pro toto & in solid. Hæred. Executor. & Administrator. nostros firmiter per presentes. Sigillis nostris sigillat. Dat. 20 die Junij, Anno Regni Dom. nostri Caroli Secundi Angliæ, &c.

The Condition.

THE Condition of, &c. That if the above-bounden A.B. do appear before the Justices of the Common-Bench at *westm.* in the morrow of the holy Trinity, to answer M.N. Gent. in a Plea of Debt; That then this present Obligation to be void, &c.

In the Kings-Bench thus:

THE Condition, &c. That if the above-bounden A.B. do appear before our Sovereign Lord the King, at *westm.* on Saturday next after the morrow of St. Martin, to answer to M.N. of a Plea of Trespass: That then, &c.

Note, That Kings-Bench Writs are always returnable upon a day certain, as on Monday, or Tuesday, or Thursday, &c. next after the morrow of St. Martin, &c. and are always in trespass, until of late by Act of Parliament the cause of Action is to be especially inserted. But Common-Bench Writs are in Debt, Trespass, Account, Trespass upon the Case, &c. as the case requires, and are not returnable on a day certain, but returnable on the morrow of the Holy Trinity, or the morrow of St. Martin, &c.

An Indenture of Covenants to a Sheriff to save him harmless for returning a Devastavit against an Executor.

THIS Indenture made, &c. Between Sir A.B. Knight, High-Sheriff of the County of Y. and C.D. Gent. Under-Sheriff of the said High-Sheriff of the said County of Y. of the one part, and E.F. of, &c. of the other part, Witnesseth, That whereas the said E.F. hath obtained and sued out of his Majesties Court of Common-Pleas at *westm.* his Majesties Writ of *Fieri facias* to the said Sheriff directed, bearing *Teste* the 29th day of June now last past, and returnable in the said Court in eight days of the holy Trinity last past, thereby commanding the said High-Sheriff to levy of the goods and chattels which late were of P.K. of, &c. deceased

ceased, at the time of his death in the hands of W.T. Executor of the Testament and last Will of the said P.R. the Testator, a certain debt of 200 l. which the said E.F. in the said Court hath recovered against the said W.T. the Executor, as by the said Writ now delivered to the said Sheriff in form of Law to be executed, more at large appeareth.

And whereas the said E.F. hath informed the said High-sheriff, and Under-sheriff, that divers goods, chattels, and debts, which were the said P.R.'s the Testator at the time of his death, to the value of his said debt of 200 l. after the death of the said P.R. the Testator, came to the hands of the said W.T. the Executor within the said County to be administered; and that the Executor since the death of the said P.R. the Testator, hath wasted the same, so that unless the said Sheriff shall upon the said Writ of *Fieri facias* make his return, to this or the like effect, viz. That the said Goods and Chattels which were the said P.R.'s the Testator at the time of his death to the value of the said 200 l. did after the death of the Testator come to the hands of the said Executor within the said County of Y. to be administered; and that the said Executor hath wasted the same, so that the said Sheriff cannot by virtue of the said Writ of *Fieri facias* do execution thereupon of the goods and chattels as is thereby required; And so that also the said E.F. cannot by course of Law have the benefit of the said recovery; whereupon the said High-sheriff and his Under-sheriff, being desirous to do what to them or either of them, by virtue of their said Office appertaineth, for the furtherance of Justice in that behalf, giving credit to the said assertion and affirmation of the said E.F. the said High-sheriff at his earnest request hath upon the said Writ of *Fieri facias* in form of Law returned to his Majesties Justices of the said Court of Common-Pleas, a *Devastavit*, of the Goods and Chattels, which were the said Testators at the time of his death, and came to the hands of the said Executor to be administered to the said value of the said debt of 200 l. Now therefore these presents do witness, that the said E.F. and T.P. for the indemnity and saving harmless of the said High-sheriff, and Under-sheriff, and of their and either of their Clerks, of, for and concerning the making of the said return, in case the assertion and information of the said E.F. be not true, do by

The returning the Devastavit.

Presidents.

*They bind
themselves
in the pe-
nalty of
300l. for
the perfor-
mance of
Covenants.*

these presents, covenant and grant joyntly and severally for themselves and every of them, and for their and every of their Executors and Administrators, to and with the said A.B. and C.D. and either of them, their and either of their Executors and Administrators, that they the said E.R. and T.P. or some of them, shall and will at all times hereafter, discharge, acquit, and save harmless the said A.B. and C.D. and either of them, their, and either of their Clerk or Clerks, and the Heirs, Executors, and Administrators of them and every of them, for and concerning all, and all manner of actions, suits, complaints, losses, vexations and troubles whatsoever, which shall at any time hereafter be commenced, attempted, brought, or prosecuted against them, or any of them by the said P.R. the Executor, his Executors or Administrators, or by any other person or persons, touching or concerning the said return, or by reason or occasion thereof; And shall and will from time to time bear and pay to them the said Sir A.B. and C.D. all such sum and sums of money, damages, costs, and expences, as against them, or either of them, or against their, or either of their Executors, or Administrators shall be adjudged, decreed or ordered, or which they or any of them shall from time to time by reason or occasion afor. said, be put unto, or shall necessarily lay out, or be enforced to pay by reason of any such action, suit, complaint, molestation, vexation or trouble: And for the true performance of all and singular which said premises, the said E.R. and T.P. do by these presents bind themselves joyntly and severally, and their and either of their Heirs, Executors and Administrators, to the said Sir A.B. and C.D. in the sum of 300 l. of good, &c. to be paid to them or either of them, their, or either of their Executors, or Administrators, if default or breach of the Covenant aforesaid shall be made. In witness,, &c.

*A discharge to the Sheriff (for a Prisoner)
from him to whom the Prisoner
is indebted.*

Now all men by these presents, that I A.B. of C. in the County of York, have remised, released, acquitted and discharged, and by the presents do for me, my Heirs, Executors, Administrators, and Assigns, remise, release, and fully and absolutely acquit and discharge E.F. High-Sheriff of the said County of Y. and G.H. his Under-sheriff, their Heirs Executors, and Administrators, of and from all, and all manner of Escapes, as well voluntary as negligent, and of and from all actions, cause and causes of actions, for or concerning the enlarging, or setting at liberty of the body of L.M. taken at my suit by vertue of a *Capias ad satisfac.* to the said Sheriff directed, of ten pounds debt, and forty shillings costs of suit, returnable in the Court of Common-Pleas in Easter Term last past; and I the said A.B. do hereby discharge the said Sheriff from all actions, reckonings, duties and demands whatsoever, concerning the executing of the said *Capias ad satisfac.* In witness whereof, &c.

Or thus:

Now all men by these presents, that I A.B. of, &c. have remised, released, and quit claimed, and by these presents do remise, release, and quit claim unto C.D. Esq; now Sheriff of the said County of Y. all and all manner of actions, suits, troubles and incumbrances whatsoever, which I might, may, or ought to have against him for or concerning the discharging, or setting at liberty L.M. of N. in the said County, Gent. being arrested and imprisoned upon a *Capias ad satisfaciendum*, out of the Court of Com-

Presidents.

Common-Pleas at *westminster* for an hundred pounds debt; and twenty shillings costs, at my suit, returnable from the day of *Easter* in one month last past. In witness whereof I have herunto set, &c.

*A Condition that the Sheriff executing a Writ,
may detain out of the goods and lands
extended so much money, &c.*

THE CONDITION, &c. That whereas the within bound A.B. the day of the date hereof, hath delivered to the hands of the within named C.D. and E.F. the Writ of execution, for levying and extending the goods, chattels, and moyety of the lands, tenements, and hereditaments of one G.H. of, &c. to, and for the use of the said A.B. whereby the same A.B. may be satisfied of the sum of two hundred pounds mentioned in the said Writ, if in case the said C.D. and E.F. or either of them, do lawfully execute, or cause to be lawfully executed, the said Writ, according to the nature, meaning, and purport thereof, by the impannelling of twelve lawful and indifferent men to be sworn of the contents of the said Writ, if then the said A.B. his Executors and Administrators, do quietly permit and suffer the said Sheriff or Under-sheriff to have, take receive and detain, to his and their own proper use and behoof, out of such moneys, goods, or chattels, as shall be had, levied, or received by vertue of the said Writ, or the execution thereof, so much in lawful money of *England*, or other benefit, as they or the said Sheriff or Under-sheriff, or one of them, shall think reasonable or sufficient, for their satisfaction of and for such travel, pains or charges, as they shall be at in and about the execution of the said Writ, and extent thereupon to be had or made; otherwise within, &c. next after the said Writ shall be executed, and return made thereof accordingly do

do pay, or cause to be paid unto the said Sheriff, or Under-sheriff, or their Deputy or Deputies, so much lawful money of England, as they shall for the causes aforesaid reasonably demand, That then, &c.

*A Bargain and sale of goods made by
the Sheriff, by vertue of
his Office.*

TO all faithful people, to whom this present writing shall come, Sir H.B. Knight, Sheriff of the County of *i.* greeting. Whereas by vertue of his Majesties Writ of *Fieri facias* to me directed, out of His Majesties Court of Common-Pleas at *Westminster*, for the levying of an hundred pounds debt, and forty shillings damages, which Sir H.H. Knight, Lord Chief Justice of the said Court of Common-Pleas, hath recovered in the said Court against E.F. Administrator of the goods and chattels which late were of I. R. late of R. in the said County, Gentleman, deceased, at the time of his death to be levied upon the Goods and Chattels which late were the said I.R.'s at the time of his death in the hands of the said E.F. to be administred, if so much of them do remain in the hands of the said E.F. to be administred; and if not, then the damages to be levied of the proper goods of the said E.F. as by the said Writ returnable *from the day of the holy Trinity in three weeks*, more at large appeareth: I have taken into my hands all and singular the goods and chattels mentioned in an Inventory hereunto annexed, being the goods and chattels which late were the said I.R.'s at the time of his death, and found in the hands of the said E.F. unadministred.

Now know ye, That I the said High-Sheriff, by vertue of the said Writ, and of my office, and for and in consideration of the sum of two hundred pounds of good, &c. to me
the

Presidents.

the said High-sheriff in hand payd, do hereby, as much as in me lyeth, by vertue of my said Office, fully and absolutely bargain, sell and deliver to the said E.F. his Executors, Administrators, and assigns, all and singular the said Goods and Chattels, *To have and to hold*, and enjoy the same unto the said E.F. his executors and administrators for ever. In witness whereof I have hereunto set my seal of Office the tenth day of *May*, in the year of our LORD, 1658.

THE

THE
JUDICIAL
AND
MINISTERIAL
OFFICE OF
CORONERS.

THIS Office of Coroner hath its Etymology or Derivation e *Corona*, being an Officer of the CROWN from antiquity, and hath principal cognisance of some PLEAS called *Placita Corona*.

He was established by pristine Kings, ALFRED, &c. to be *Principalis conservator pacis*, according to the *Mirror of Justice*, which saith, *Auxi ordans fuer Coronours in chescun County, & Viscounts a garder le peace, quant les Countees soy demisterent del gard, & Bailiffs in lieu de centeners* (that is) Coroners in every County, and Sheriffs were ordained and constituted to be Conservators of the Peace, when the Earls dismiss themselves of the custody of the Counties, and Bailiffs in place of Hundredors: but of his antiquity and jurisdiction. *Vide 2d Institut. Magna Charta, cap. 17. Merton cap. 3. Redisseisin, and Westminster 1 cap. 10. and 26. and Articl. Super Chart. cap. 3.*

This

This office of Coroner is duplicate } General
and
Special.

1. General.

Mirror c.
1 Sect. 13.

TO the office of general Coroners appertains the receiving of the Appeals of the whole County, of Felonies committed within the year; to award the Exigents of contempts, and to pronounce the Judgments of Out-lawries upon County days (of which see more in the County Court) and likewise in what pledge or Decenary they were, or of whom mainprised, and in whose ward.

2. Special.

Artic. Super
Chart. c. 3.

Vide 3. H.
8. c. 12.

Finch ley
lib. 3. cap.
24.

Special Coroners, are Coroners of Liberties, and of privileged places, as Coroner of the Verge, viz. Coroner of the Kings Household, &c. to demonstrate the distinction of the Authority and Jurisdiction of general and special Coroners; see *Wrote* and *Wiggs Case*, in the fourth Report, fol. 45 and 46. Where it was resolved, That at Common Law the Coroner of the KINGS House had an exempt jurisdiction within the Verge, and the Coroner of the County cannot intermeddle therein, as appears by the preamble of the Statute of *Articuli Super Chartas*; Because that before this time many Felonies done within the Verge have been unpunished (and the reason and cause thereof was) because the Coroners of the County are not suffered to interpose to enquire of Felonies within the Verge, but the Coroner of the KINGS hostel, which is passant. By which it appears, that the Coroner of the County could not intermeddle with the death of a man within the Verge but the Coroner of the Hostel only. And so was it adjudged, *Pasch. 24. Eliz* in the Kings Bench, where *Swift* was indicted before the Coroner of the County of *Middlesex*, of a Murder done at *Tuttil* in the said County of *Middlesex*, which Indictment was removed into the Kings Bench, and there *Swift* pleaded that *Tuttil* was at the time of the murder, and yet is within the Verge, &c. upon which the Attorney did de-

mar

mur in Law, and it depended in adviſement three Terms, and at length the plea was adjudged good, and thereupon he was diſcharged of the Indiſtment; for as the Coroner of the Houſhold cannot intermeddle within the County out of the Verge, becauſe his Office extended not to it: ſo the Coroner of the County cannot intermeddle within the Verge; and it ſhall be contrary to reaſon, that their Offices and Jurifdictions being ſeveral and diſtinct, the one ſhould intermeddle within the jurifdiction of the other. But it was reſolved, that the Juſtices of the Kings Bench, Juſtices of Oyer and Terminer, Goal-delivery, and Juſtices of Peace, may enquire of, hear and determine all murthers and felonies within the Verge, becauſe their authority and jurifdiction are general through the whole County, and always hath been ſo uſed, and ſo was adjudged without any ſcruple in *Holcrofts Caſ.*

What perſon ought to be Coroner, and how qualified.

OF ancient time this Office was of ſuch eſtimation, that none could have it but a Knight, if we look back to the Statute of *weſtm. 1 cap. 10.* and the current of the Writ in the Register fol. 177. b. is *niſi fit miles, &c.* and ſuch a one *qui melius ſciat, & poſſit officio illi intendere:* for this was the policy of prudent antiquity, that Officers ſhould ever give a grace to the place, and not the place (only) to grace the Officer: Therefore it was holden a principal cauſe to remove and diſcharge a Coroner if he were not a Knight, and had not a hundred ſhillings rent of Freehold. Yet in *F.N.B. de Coronatore eligendo*, it is not allowed a valid and ſufficient cauſe to remove him, (though he be not a Knight) at this day, alledging, That thoſe words were inſerted into the Statute, to the intent that a Coroner ſhould have ſufficient within the County to be reſponſible for all that he doth or ought to do by his ſaid Office. Mr. *Wilkinſon* in his office of a Coroner alſo ſaith, That this Statute requi-
reth

*See Brit.
cap. 3. fo. 3.
Stamf. pl.
coron. 84. c.
Register
177.*

The Office of a Coroner.

*F.N.B. de
Coronatore
eligendo &
de electi-
one Viri-
darium.*

reth such a Coroner as can, will, and may attend to execute the said office : And therefore (saith he) if such a Coroner be elected, as cannot, will not, or may not attend the execution of the said office, he is to be removed and discharged by Writ from the same office ; and the cause of his not attendance, debility, or insufficiency must be rehearsed in the writ: and if he be discharged of his office by a false suggestion, he may by a petition in *Chancery* pray a Commission to enquire of this false suggestion, and if it be found and returned into the *Chancery*, then his Majesty may grant a *Superfedeas* to the Sheriff of the County, that he remove not the said Coroner from his office ; and if he be removed before the *Superfedeas* come, then that he permit the Coroner removed to execute his office as he did before his removal.

*Co. Inst. 2.
fol. 174, &
175.*

He must have two properties, *viz.* sufficient knowledge, ability, and diligence in executing his office. Sir *Edward Coke* in the second part of his *Institutes*, *Westm. 1 cap. 10.* saith, he should have five properties, *viz.*

1. He should be *Probus homo.*
2. *Legalis homo.*
3. Of sufficient understanding and knowledge.
4. Of good ability, and power to execute his office according to his knowledge.
5. Diligent in executing of his office.

And the Common Law doth not only require expert men to be Coroners ; but men of sufficient ability and livelihood for three purposes, *viz.*

1. The Law presumes that they will do their duty, and not offend the Law, for fear of punishment, whereunto their lands and goods be subject.
2. That they might execute their office without bribery.
3. That they be able to answer to the King all such fines and duties as appertain to him, and to discharge the Country thereof, wherewith the Country being their Electors were chargeable. For the Coroners being elected by the Country, if they be insufficient, and not able to answer such fines and other duties in respect

spect of their office, as they ought, the County as their superiour shall answer the same. As for example, the County of Kent made election by force of the Kings Writ of *William Herlizon* to be one of the Coroners for the same County, who after was amerced for a false return forty shillings; Whereupon process went out to the Sheriff to levy it, the Sheriff upon his oath said that the said *William Herlizon*, *non habet terras vel tenementa bona seu catalla in balliva sua nec habuit unde dict. denarii levare possint*: Now saith the Record, *Et quia ipse Coronator electus fuit per comitatum, &c. ita quod in defectu ejusdem Coronatoris totus Comitatus ut elector & superior, &c. tenetur regi respondere, preceptum fuit nunc vicecomiti. quod de terris & tenementis hominum totius Comitatus in balliva sua fieri fac. predict. 40 s.* And the like law was of the Sheriff, and other the said officers, when they were eligible.

They remain Conservators of the peace, within the County where they are Coroners, notwithstanding the King's death, for being elected by the Freeholders of the County by Writ, and returned of Record in the Chancery, which is a judicial act, remaineth, and so of the *Verderor*: It is otherwise of Judges and Justices that hold their place by Writ, Commission, Letters Patents, or otherwise at will, whose authority is determined by the death of the King, for by the Commission, &c. he makes them *Justiciarios suos*, so that he being once dead, they are no more his Justices. And it might be a reason wherefore the Sheriff of ancient time was eligible, for that he had *Custodiam Comitatus*, and principal Conservator of the Peace; and therefore his authority should not cease by the death of the King no more than that of the Coroner.

Of the number of Coroners in each County.

THe number of Coroners are not set down by the Law. In some Counties there are four, in some Counties six, in

Finch.fo.
115.

in some fewer, and in some but one, 23 *Aff.P.* 7. 14 *H.4.* 34.
39 *H.6.* 40. *F.N.B.* 163. *Inst.* 2. *westm.* 1. *cap.* 10. but in twelve
Shires in wales, and in *Cheshire* there are but two, *Vid. Lamb.*
Inst. 16 *b.* *Stamf.* 48.

Of the Power and Jurisdiction of
Coroners.

THe Coroners power is duplicate, *viz.*

1. Judicial.
2. Ministerial.

Co.2. Inst.
Mag. Char.
c.17.

1. The Judicial authority both of a general and special Coroner is in case where a man comes to a violent death, by felony or mischance, and to take the acknowledgment of felony, to take the Inquest of felonies happening within his Liberty, to give abjurations, and pronounce Judgment upon out-lawries, appeals of death by bill, &c. solely to take an Indictment *super visum corporis*, and to take and enter an appeal; but he can proceed no further, upon the Indictment or appeal, but to deliver them over to the Justices, and to enquire of Treasure trove, and wreck of the Sea, &c. But if you will enquire more amply what anciently appertained unto him, read *Bracton lib. 3. tract. 4. cap. 5. de officio Coronatorum circa homicidium*: & *cap. 26. de officio Coronatoris in thesauris inventis* & *cap. 6. de officio Coronatorum in raptu Virginum*: & *cap. 8. de officio Coronat. de pace & plagis*. And *Britton* in his first Chapter where he treats of it at large: and *Fleta L. 1. cap. 18.* But more amply in *Stamfords pleas of the Crown, lib. 1. cap. 51.*

It is amply expressed in *F.N.B.* fol. 186. that the Coroner shall carry the Records of his own view, abjurations, out-lawries, appeals, accusations of Thefts done before him, and of all other things done in the Countrey, that is certain to the
Co-

Coroners office : and also in the Court of Freemen which have Franchises of infangthesf, &c. And in the presence of the Coroner shall all appeals of Robbery and Larceny be framed.

Now, as to the view of the body of a man, it is his office that so soon as he shall be certified thereof, to send to the Constable of the Hundred of the place to summon sufficient and able men of the towns adjacent, that at a day certain they be before him at such a place; all which done the body is to be viewed, and if it be buried, it is to be taken up, and he is to record the names of those who buried him : and if it hath been decreased or endamaged by ill keeping, or lain so long that it cannot be judged how it came by its death, the same must also be recorded, that this negligence may be punished at the coming of the Justices of Assize into the Circuit, for the Town where the amercement was shall be grievously amerced, upon the sight of the Coroners rolls. 2 R. 2. 2.
4 H. 7. 18.

He ought to do his office in person, and to see the dead body when he maketh inquisition, otherwise the inquiry is invalid : for if he will inquire of any dead person without view, this is without authority and void.

If the Coroner be remiss and negligent in coming to execute his office, after he is sent unto, he shall be amerced.

But to proceed, if the Coroner with the advise of the people present, be able to judge of the death, then are they to present the manner of his killing, whether he died of anothers felony or of his own, or by mischance; and if of blows, whether of a staff or a stone, or any other weapon; and he is to record in his rolls the names of those who were summoned and appeared nor, that the same offences of disobedience remain not unpunished, whereby the Coroner could not at that time proceed for want of Jurors. Therefore we will inquire what persons may be of the Enquest. Mirror C. 1.
sect. 13.

*What persons are to be of the Coroners Inquest,
and how to be qualified.*

THe Inquisition before Coroners is to be of persons within the four next adjacent Villages, to be made by the Croke 1.
part. f. 74.
Sir Will.
w. thi poles
Balliff case.

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In case of death an Inquisition super vis. corp. per sacr. prob. & leg. hom. where not good. Poph. rep. fo. 202. Harrison against Erington. Bailiff or Constable of those Villages, as appeareth by the Stat. of 1 E. 1. *de officio Coronatoris*, & Crompton fol. 113. In these Inquests lie no exceptions or challenges to the persons of the Jurors; but he ought to make his pannels of the discreetest, and ablest, and best of them.

The names of the Jurors ought to be certified, for peradventure they be not *probi & legales homines*, but Villains and Outlaws. 15 H. 4. 41. For note, that an Indictment before Coroners was found, that the Earl of B. was *jelo de se*, was quashed, because it did not appear that it was *per sacrament. proborum & legalium hominum*, Pophams rep. fol. 202. Harrison against Erington.

And likewise in Hilary Term, 2 Car. B. R. Pophams rep. fol. 209 & 210. a great multitude of Welchmen were Indicted for the death of a man by an Inquisition taken before the Coroner in the County of Montgomery in Wales, and exceptions were taken to the Inquisition: as first that the Coroner cannot take any Inquisition, unless it be *super visum corporis*, and to this was cited, Britton 6 R. 2. Coron. 107. 21 E. 4. 70. 2 R. 3. 2. This is also the reason, that if a man drown himself, and cannot be found, the Coroner cannot inquire of the death of this man: but for the King to have a forfeiture of his goods, an Inquisition ought to be taken before the Justices of the Peace. The second exception was, that the Inquisition was *per sacramentum proborum & legalium hominum com. predict.* whereas by the Stat. of 4 E. 1. this enquest ought to be by men of the four next Towns adjoyning, and this ought to appear in the Indictment also. Hill. 10. Jac. Rot. 3. Co. lib. Intr. 254 and in Pasc. 3. Car. This Indictment was quashed for these exceptions.

Smiths Common-wealth of England, c. 24. The empannelling of the enquest, and the view of the body, and the giving of the verdict, is commonly in the Street in an open place, and in *corona populi*; but this name rather cometh because the death of every Subject by violence is accounted to touch the Crown of the Prince, and to be a detriment unto it. The Prince accounting that his strength, power, and Crown doth consist in the force of his people, and the maintenance of them in security and tranquillity.

The Method of keeping the Coroners Court.

THe Coroners Court is a Court of Record, and holden after this manner. Stamf. 52:

When a Coroner cometh to view a party that hath hanged, killed, or drowned himself, or that hath come to his death by any other accident, he must make out his Warrant to impanel a Jury, to the Bailiff in whose Liberty the party lieth dead, to appear before him at such a day, and place, as he shall nominate and appoint. The form of the Warrant is thus :

To the Bailiff, and also to the Constable and Tithingmen of the Hundred of R. in this behalf joyntly and severally greeting.

BY vertue of mine office, these are in the name of our Yorkshire
Soveraign Lord the King, to will and require you, immediately upon the receipt and sight hereof, to summon and warn twenty four able and sufficient men to be and appear before me at *Skipton* the 21. day of *Novemb.* next ensuing the date hereof, at the common *Tolbooth* of the said Town, then and there to do & execute such things as on his Majesties behalf shall be given them in charge ; whereof fail you not, as you, and every of you will answer the contrary at your perils. Dated under my hand and seal, the 12. day of *September*, in the year of our Lord. 1658.

By me *W.G.* one of the Coroners
of the Countrey aforesaid.

If it be a City or Corporation, then the form of the Warrant or precept is thus :

city of } To the Sheriff of the City of York, and to the Ser-
York. } jeants at Mace, attending the said Sheriffs.

THese are to will and require you, and in the name of our Sovereign Lord the King, &c. straitly to charge and command you, that you cause to come before me one of the Coroners of the City of York, and County of the same City, at the house of T.P. in *Fisgate* within the said City, between the hours of One and Two of the Clock in the Afternoon of this present first day of *May*, twenty four good and lawful men of the said City, then and there to enquire upon the view of the body of *A.B.* there lying dead, how and in what manner he came to his death; fail not herein at your peril, as you will answer the contrary: given under my hand and seal, the &c. 1658.

By me L.C. &c.

When you come to the place appointed call the Bailiff, Constable, &c. to make a return of their Warrant.

Then command one to make three Proclamations, calling the Jury after this manner.

You good men that are returned to appear here this present time to enquire for our Sovereign Lord the King, &c. answer to your names as you shall be called, every man at the first call, upon pain and peril that shall fall thereon.

And such of the Jury as fail to appear shall be fined forty shillings.

The Jury appearing swear fourteen or fifteen of them, and give the Foreman his oath *super visum corporis*, thus:

The oath of
the fore-
man of the
Jury.

You shall diligently enquire and true presentment make on the behalf of our Sovereign Lord the King, &c. how, and in what manner *A.B.* here lying dead, came to his death, and you shall deliver up to me (his Majesties Coroner) a true Verdict thereof according to such evidence as shall be given up to you, according to your knowledge: so help you God, &c.

Or

Or thus :

You shall diligently enquire, and true presentment make of such things as shall be given you in charge, according to your evidence: so help you God, &c.

Then swear the rest by four at once, thus :

All such oath as *L.M.* the foreman of this Inquest for his part hath taken, you and every one of you shall well and truly observe and keep on your parts, according to your evidence: so help you God, &c. *The oath of the rest of the Jury.*

If the evidence be not ready, you may adjourn until another day and place, to receive their evidence, binding the Jury by recognizance in twenty pounds apiece for their appearance.

Then send out your warrants to the witnesses, commanding them to come to be examined before you, and to deliver their knowledge touching the matter in question, taking their examinations in writing under their hands.

If it be about the trial of a mans life, then must the witnesses be all bound over in twenty pounds piece at the least, personally to appear at the next assizes then ensuing, to deliver their knowledge therein.

The Recognizance must be made in this manner, *viz.*

The two and twentieth day of *May* in the year, &c. *A.B.* *York.* *J.* of *C.* in the foresaid County, acknowledges himself to owe, and to be indebted, &c. under condition, &c.

That if the said *A.B.* do personally appear before the Justices of Assize, and Goal-delivery, at the next Assizes to be holden at the Castle of *Y.* for the said County, and then and there deliver and set forth his knowledge touching the death of *E.F.* and do not depart thence without licence of the said Court. That then this present Recognizance to be void and of none effect, or else the same to stand, remain, and continue in force, strength, power and vertue.

Taken and acknowledged the two and twentieth day of *May* in the year 1658. aforesaid, before me *R.W.* Gent. one of the Coroners of the County aforesaid.

R.W.

Then command three Proclamations to be made, thus :

T 4

If

The Office of a Coroner.

If any man can give evidence on the behalf of his Majesty, how and in what manner *A.B.* here lying dead, came to his death, draw near, and you shall be heard.

*The oath of
the evi-
dence.*

Evidence appearing, give him or them this oath:
All such evidence as you shall give to this Enquest, concerning the death of *A.B.* here lying dead, shall be the truth; the whole truth, and nothing but the truth: so help you God, &c.

The Jury being all sworn, command them to stand together and hear their charge, the which I shall give you in brief.

Gentlemen,

*Coroners
charge to
the Jury.*

1. You that are sworn, you shall by your Oaths declare of the death of this man, whether he died of felony, or by mischance; and if of felony, whether of his own or of another, and if by mischance, whether by the act of God, or of man; and if of famine, whether of poverty or common pestilence; and from whence he came, and who he was; and if he died of another's felony, who were principals, and who accessories, and if Hue and Cry were duly made or not, and whether the men fled according to Law or not, and who threatened him of his life or members, and who were sureties of the Peace: or whether he dyed of long imprisonment, or of pain, and by whom he was further from life and nearer to his death; and so of all prevailing circumstances that can come by presumptions.

*What are
Deodands,
and what
are not.*

2. And in case where he died by hurt, or fall, or other chance by the act of God, so that he had no power to speak before his death; then you shall enquire the names of the finders, and of his next neighbours, and who were his Parents, and if he were killed there, or elsewhere; and if elsewhere by whom, and how he was thence brought, and the value and kind of the Deodand, and to whose hand it came; for in case a man dieth by a fall, in such case according to *Glanville*, it is ordained, whatsoever is cause of his death is Deodand, as it is for whatsoever moveth in the thing whereof he fell, as Horse, Cart, Millstone; also Vessels are sometimes Deodands, but not in the Sea; according to the Maxime, *Omnia que movent ad mortem sunt Deodanda*, but the sums upon the Horse,

Horse, the goods lying in Ships, Mills, Carts, and Houses are not accounted for *Deadends*.

3. And in case of anothers felony, then you are to enquire, who are the felons, in what Hundred, Pledge, Dosein, Ward, or Mainprize they were, and from whence they came, and where they returned.

4. And if he was killed by false judgment, then you are to enquire who were the Judges, who the Officers to form the Judgment, and who accessaries; and if of false witnesses, who they were, and the Jurors.

5. And if he died of his own felony, then that you enquire the manner, and the value of his goods, and the name of his parents, and the finders, and of the neighbours, and the value of the waste.

Note, That you are also to enquire of the Accessaries, and they are nine in number, *viz.*

1. Those who command.
2. Those who conceal.
3. Those who allow and consent.
4. Those who see it.
5. Those who help.
6. Those who are Partners in the gain.
7. Those who knew thereof, and did not interrupt or hinder it by forbidding.
8. Those who knowingly receive such Offenders.
9. Those who are in the force.

All which you are to enquire of. Also you must know, that if one man wilfully kill another, or if a man kill or drown himself, the first doth forfeit by that fact both his lands and his goods, and the other forfeits but good and chattels, and no lands. And if any homicide happen to be wilful murther, which offence cannot be too severely punished, therefore by the Law, the offender herein ought to lose both life, lands, and goods. And if it be found Manslaughter, if the offender can read, then he may, in favour of his life, by the Kings mercy, have the benefit of his Clergy, and so save his life, but he shall forfeit both his Lands and Goods. The Goods must be found appraised and valued, of such offenders, and left in the Town or Village where such offender dwelleth, by them safely to be kept, until the Offender be acquitted

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ted or convicted by due course of Law; the *interim*, the offender must be maintained with his goods, so as he may be kept alive to answer his fact, and what shall remain when he is convicted, those to whom such goods do belong by the Law must have them, and not before, and thereof discharge the Town or Village which had the custody of such goods. And as for the Offenders Free Land, if he have any, immediately after Conviction His Majesty must have *annum, diem, & vastum* therein, and after, the Lord of whom it is holden, shall have it as an Escheat.

Thus having in brief declared these things Incident to my office, and to you to enquire of, I will conclude. Therefore stand together, and hear your Evidence.

2. His Ministerial Power.

14 H. 7. 31.

4 H. 7. 3.

Pl. Com.

WE now come to his Ministerial power, wherein he hath authority as a Sheriff, &c. that is, when there is just exception taken to the Sheriff, judicial process shall be awarded to the Coroners for the Execution of the Kings Writs, in which cases he is *locum tenens vice comitis*, and in some special cases the Kings original Writ shall be immediately directed unto him.

When the Sheriff is Plaintiff in an action of waste the Estrepement shall go to the Coroners.

He may take posse Comitatus

Estrepement judicial was awarded out of the Court to the Coroners of the County of *Westmorland*, in an action of Waste, brought by the Earl of *Cumberland* against the Countess Dowager, because the Earl was Sheriff of the same Shire, by which Writ the Coroners were commanded to suffer no waste to be done in the Lands. &c. And it was then said, that the Coroner may provide against waste, by taking *posse Comitatus*, *Hobert fol. 85. Cumberlands Case.*

Of the Coroners Fees.

THe Statute of 1 H. 8. c. 7. prohibiteth a Coroner for taking any thing for doing his Office, upon pain for every default forty shillings, the like penalty where giveth not his

his attendance when he is required to make Inquisition upon death of any dead Corps, &c.

Fitz. tit. Coron. fo. 321 & 371. A Coroner hath a Fee appertains to his Office, viz. of every *Visne* one penny, when they appear before the Justices of Assize, which Fee he receives not to do his Office, but as a right due to him, though he execute no part of his office. *Fitz. tit. Coron. fol. 321 & 371.*

By the 5 H. 7. He is to have (upon an Indictment found of murder) thirteen shillings four pence of the goods of the Murtherer, and if he hath nothing, then of the amercement of the Township for the escape, &c. *Mirror cap. 1. Office of Coron. Fleta lib. 1. cap. 18. Stamford's Pleas of the Crown fol. 48, 49, & 50.* *5 H. 7.*

Of Appeals.

APPEAL hath its Origen or Etimology of the French word *Appeller*, signifying to accuse or appeach; it is an accusation; or of *Appeller*, to call, because appellans *vocat reum in judicium*, he calleth the Defendant into judgment, *Co. super Litt. 2. lib. 2. c. 11. sect. 189. & lib. 3. cap. 8. sect. 500.*

Appeals are triplicate, viz.

1. Of wrong to his Ancestor, whose Heir Male he is, and that is only of death.
2. Of wrong to the Husband, and is by the Wife only of the death of her Husband, to be prosecuted whilst she is a Widow; for if a woman who hath title of an Appeal of the death of her Husband takes another Husband; he and the Wife shall not have an Appeal; for the woman ought to have it sole: for the cause of an Appeal is, that she is indigent of her Husband; and the reason is, because the Wife wanting a Husband, is not so well able to live, and therefore when she hath another Husband the Appeal is determined: for *cessante causa cessat effectus*, the cause ceasing, the effect ceaseth. (*Br. Appeal 109.*) As where a woman hath a *Quarentine* and she marries within the forty days, she loses her *Quarentine*, *1 Mar. 1 Br. Appeal 109. Dower 101.*

3. Of

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3. Of wrongs done to the Appellants themselves, as robbery, rape, and mayhem.

There shall none of the blood make Appeal, but the next Heir of the blood, that should have the Heritage by Law after the Death of him that was slain.

If a man be slain having a wife, his wife shall be admitted to make Appeal within a year and day, if she begin the Appeal but two days before the year be past, it is as good as if it had been at the beginning of the year.

If the wife begin not her Appeal, within a year and a day after the death of her Husband, she shall never afterwards be received to make an Appeal.

The Heir of a man killed shall have Appeal as well of homicide of his Ancestors, as of murder, 2 E. 6. Br. Appeal 122.

If he that is attainted of Treason or Felony be slain by one that hath no authority, in this case his eldest son can have no Appeal; for he must bring his Appeal as heir; which being *ex provisione hominis*, he doeth it by the attainder of his Father, but his wife shall have an Appeal, because she is to have her Appeal as wife, which she remaineth, notwithstanding the attainder, because *Maris & femine conjunctio est de jure nature*, and therefore is indissoluble.

An Appeal of Mayhem is in a manner but a Trespass, for he shall recover but damages, yet the Indictment shall say, *quod felonice mahemavit*.

The Coroner receiveth at the County appeals of robbery and appeals of death, whether it be for the wife of him that is dead, or for his heir, which appeal may be made at any County within a year and a day after the fact committed. That is, within a year and a day after the stroke, and not the death, *Stamf. Co. 4. Report. Cases of Appeals and Indict.*

If a man make Appeal at the County, it behoves him to be at the County in proper person to make his Appeal, and he must find sureties at the same County to pursue his Appeal, and he shall have a day to the next County to pursue his Appeal; and if the Plaintiff fail at the County of his appearance in proper person, the Appeal is abated.

If a man make an Appeal, and be non-suit in his Appeal, he shall never be received to make his Appeal afterwards.

Note, That an Appeal of Death may be commenced before the Coroner, and Process awarded to the Exigent; but the Plea shall not be determined before him. *Br. Appeal 62 the end Corone 82.*

Westminster 1 cap. 10. The Sheriff shall have Counter-Rolls with the Coroners, as well of their Appeals, as of Enquests of Attachments, and of other things which to that Office appertains.

The Sheriff shall have Counter-Rolls of Appeals, &c.

An Appeal of Murder by the Wife of him that was slain.

A. B. nuper uxor C.D. in propria persona sua instanter appellat E.F. nuper de S. in Comitatu Eboracensi Gen. in Custodia H.R. Vic. Comitatus predicti. & ad Barram ducti, in propria persona sua de morte predicti. C.B. nuper viri sui de eo quod ubi idem C.B. nuper vir ejus 10. die Maij, Anno, &c. fuit in pace Dei & dicti. Dom. Regis operans & laborans in lapidibus calcariis, (Anglice Limestones) effodiend. in terris T.W. Armig. in quodam loco ibidem vocat' (A stone-Delph vel Pit) apud S. in Comitatu predicto, ubi ven. predictus E.F. ut Felo dicti. Dom. Regis, & de insultu & malitia precogitata in eundem C.B. dicto 10. die Maij, Anno, &c. supradicti. circa horam septimam ante meridiem ejusdem diei, vi & armis, viz: baculis, cultellis, gladiis, &c. apud S. predictam, in predicti. loco felonice insult. sec. & eundem C.B. adtunc & ibidem felonice & voluntarie interfecit & murdravit, & eundem C.B. sic interfect. ab inde incontinenter asportavit in quandam angulam ejusdem le stone-Delph vel Pit, & cum lapidibus calcariis adtunc & ibidem jacen. in dicto le Delph vel Pit abscondidit in Parochia de S. in Comitatu predicti. contrapacem dicti. Domini Regis Coron. & dignitatem suas: Et quam cito idem felo, feloniam & murdrum predicti. fecisset fugit, & predicti. A.B. ipsum recenter insecut. fuit de vill. in Villam usque quatuor vill. proquinquiores & ulterius quousque, &c. Et si predicti. E. T. Feloniam & murdrum predicti. in forma predicti. facti dedicere

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dedicere velit, tunc prædict. A.B. parat. est felon. & murdr. prædict. versus eum probare prout Cur. hic, &c. Et inven. pleg. de prosequen. Appell. illud, viz. I.D. & R.R. &c.

If the Appeal be by the Heir of the person Murdered, then thus :

A. B. proxim. de sanguine & filius & hæres C.D. in propria persona sua instanter appellat E.F. nuper de S. in Comitatu Eboracensi Gen. & G.H. nuper de R. in Comitatu prædicto Armig. in Custodia H.B. Pic. Com. prædicti ; Et ad barram duët. in propria persona sua de morte prædicti C.D. nuper patris ejus de eo quod ubi idem C.D. die, &c. Anno &c.

An Appeal of Mayhem.

A. B. in propria persona sua appellat R.L. de D. in Comitatu Ebor. Armig. de eo quod ubi idem A.B. fuit in pace Dei & Domini Regis, nunc apud C. in Comitatu prædicto die & anno, &c. idem R.L. ven. & in eundem A.B. ex malitia sua præcogitat. insult. fecit & armat. in tali modo manum dextram ipsius A.B. amputav. (vel tali baculo super caput ejus percussit, unde penetravit caput ejus) vel lapide tres incisurum expungit, per quod ipsum felonice mayhemavit, & quam cito, &c. Et si, &c. idem A.B. hoc parat. est versus eum probare, prout Cur. &c.

Of Wounding, thus :

A. B. in propria persona sua, &c. de eo quod ubi predict.
C.D. &c. eundem A.A. tali telo ipsum percussit & ipsum
 in tali parte Corporis sui vulneravit, quod quidem vulnus con-
 tinet tantum longitudine, tantum in latitudine, & tantum pro-
 funditate; Et hanc plagam felonice dedit, & quam cito, &c.
 Et si, &c. idem A.B. hoc paratus est versus eum probare pro-
 ut Cur. &c.

An Inquisition of Murder.

Inquisitio indentat. capr. apud Parochiam de S. in Comitatu Middle-
 Middlesex, xxv. die Martii, Anno, &c. coram T.E. sexll.
 Gen. un. Coronatorum Comitatus predict. super visum corporis
 cujusdam W.F. adtunc & ibidem mortui jacen. per sa-
 crum J.W. R.W. H.P. J.A. J.B. L.S. M.L. J.R. S.B.
 W.H. R.G. & N.S. proborum & legalium hominum Pa-
 roch. predict. & quatuor aliarum Villarum in Comitatu pre-
 dicto eidem Parochie prox. adjungen. jurat. triat. &
 onerat. ad inquirend. ex parte dicti Dom. Regis, qualiter &
 quomodo predictus W.F. ad mortem suam devenit super sa-
 crum suum dicunt quod predictus E.L. nuper de Parochia de
 S. predicta in Comitatu predicto Labourer, xx die Martii,
 Anno, &c. predict. timorem Dei prae oculis suis non habens,
 sed instigatione Diabolica motus & seduct. vi & armis, &c.
 apud Parochiam predictam in Comitatu predicto, in & super dict.
 W.F. in pace Dei & dicti Domini Regis existen. adtunc
 & ibidem felonice insult. fecit, Et quod predict. E.L.
 eundem W.E. adtunc & ibidem in terram dejecit & pre-
 cipitavit; Et presat E.L. cum manu sinistra & ambobus
 pedibus ipsius E.L. predictum W.E. (sic ut presertur in
 ter-

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terram prostrat.) in, & super Pectus suum cum manibus & pedibus suis felonice percussit, verberavit & calcavit: Et eidem W.F. ad tunc & ibidem cum manu sinistra & ambabus pedibus ipsius E.L. in, & super Pectus ejusdem W.F. dedit unam contusionem mortalem, longitudinis sex pollicium, & latitudinis quatuor pollicium, de qua quidem contusione mortal. predictus W.F. ad tunc & ibidem instanter languebat & languidus vixit, a dicto xix die Martij, Anno, &c. usque xx. diem dict. mensis Martij, tunc prox. sequen. quo die predict. W.F. apud Parochiam predict. in Comitatu predict. ex contusione mortal. predict. obiit; Et sic Juratores predict. super sacrum suum predict. dicunt quod predict. E.L. predict. W.F. felonice interfecit & murtheravit, modo & forma predictis contra pacem dict. Domini Regis, Coron. & Dignitat. suas; Et que bona & catalla predicta E.L. habuit tempore felonie predict. modo & forma predicta. per ipsum fact. & commiss. iidem Jurator. penitus ignorant.

In cujus rei Testimonium tam ego prefat. Coron. quam Jurator. predict. huic Inquisic. Sigilla nostra alternatim apposimus, die Anno & loco supradict.

An Inquisition for Man-slaughter, where one was Starved, and perished for want of sustenance.

Middlesex ff.

Inquisitio indent. capt. apud Hamstead in Comitatu Middlesex, xx. die Decembris Anno, &c. coram J.G. Gen. un. Coronator. ejusdem Domini Regis Comitatus predict. super visum corporis W.T. ad tunc & ibidem mortui jacens per sacrum R.H. W.P. T.E. M.W. J.M. N.D. A.P. P.B. R.B. R.C. J.B. E.F. J.W. J.C. J.H. D.C. J.S. & J.M. proborum & legalium hominum de Hamstead predict. & de quatuor al. Vill. in Comitatu predict. Ville de Hamstead predict. proxim. adjungen. qui onerat. & jurat. ad inquirend. qualiter quando & quomodo predict. W.T.

ad

ad mortem suam devenit super sacrum suum dicunt quod J.B. de W. in Com. predict. Taylor, & S. uxor. ejus, Deum præ oculis suis non habent. sed instigatione Diabol. mot. & seduct. xx. die Novembrii, Anno, &c. supradict. vi & armis, &c. apud W. pred. in Com. predicto, in, & super eundem W.T. adtunc Apprentic. ipsius J.B. in Pace Dei & dicti Domini Regis, adtunc existen felonice, voluntarie. & ex malitia sua precogitat. insultu fecer. & quod ipsa predicta S. adtunc scilicet predicto xx. die Novemb. Anno pred. & diversis al. diebus & temporibus, tam antea quam postea apud W. pred. in com. pred. felonice, voluntarie, & ex malitia sua precogitat. detinuit & detraxit ab eodem W.L. & eidem W.T. non exhibuit & dedit bon. & sufficien. aliment. vict. amict. lecturam, medicin. ac al. necessar. ea intentione prefat. W.T. per indigenc. inde miserabiliter langueret, interiret, & moreretur, de quibus quidem detentione & subtractione aliment. a prefat. W.T. non exhibitione & allocatione eidem W.T. bon. & sufficien. aliment. vict. amict. lecturam, medicin. ac al. necessar. per eundem S. predict. W.T. a predicto xx. die Novembr. Anno predicto usque xv. diem Decemb. tunc prox. sequen. Anno predicto apud W. predict. in Com. predicto miserabiliter. languebat & languescens miserabiliter. vivebat super quæ quidem xv. diem Decemb. Anno predicto prid. W.T. pro defectu bon. & sufficien. aliment. vict. amict. lectur. medicin. & al. necessar. apud W. pred. in Com. predicto miserabiliter interiebat & moriebatur : Et quod predict. J. B. simul ac cum pred. S. uxor. ejus tempore felon & murdr. pred. per pred. S. modo & forma pred. fact. & commiss. felonice & voluntar. & ex malic. sua precogitat. fuit presens, assistens, abbettans, procur. confort. & manutenen. prefat. S. predictum W.T. modo & forma predictis interficere & murdrare : Et sic Jurator. pred. dicunt super sacrum eorum pred. quod ipsi pred. J. B. & S. uxor. ejus predictum W. T. modo & forma pred. felonice, voluntarie, & ex malitia sua precogitata interfecer. & murdraver. contra Pacem dicti Domini Regis Coron. & Dignitat. suas, &c. Et sic predictus W. T. ad mortem suam devenit & non aliter, neque ullo al. modo preterquam sicut supradicitur. Sed que bona, et catalla, terras sive tenementa, prefat. J.B. & S. uxor ejus tempor. felon. et murdr. predict. per predict. J.B. & S. ux. ejus. modo & forma predict. fact. & commiss. seu ullo alio tempore postea usque caption. istius inquisition. (habuer. iidem Juratores penitus ignorant. In cujus rei testimonium, &c.

*Inquisition where one is slain by misfortune
by a Cart loaden with Hay.*

*Middle-
sex ss.*

Inquisitio indent. capt. apud, &c. Qui dicunt super Sacrum suum, quod prædict. A.B. 10 die Maii, anno, &c. prædict. apud S. prædict. in Com. prædict. cundo cum caruca sua à S. prædict. usque L. in dict. Com. per viam inter S. & L. prædict. scil. apud, &c. prædict. in Com. prædict. caruca sua prædicta feno onerata, anglice, *his said Cart loaded with Hay*, cecidit super corpus prædicti A.B. & ita quassavit & fregit Corpus suū quod de quassatione & fractura ejusdē prædict. A.B. adt. & ibid. incontinententer obiit. Et sic Juratores præd. super Sacrum suū præd. dicunt quod præd. A.B. modo & forma præd. per infortunium ad mortem suā devenit. Et ulterius Juratores præd. super sacrum præd. dic. quod adt. & ibid. quatuor equi cum Caruca præd. & onere feni, continens pondere per estimationē quadragint. pondera, anglice, *containing in weight by estimation 40 stone*, moverunt ad mortē præd. A.B. & quod præd. quatuor equi sunt pretii octo liberar. & decem solid. Et quod præd. Caruca est valoris xx s. Et quod præd. Caruca remanet in Custodia C.D. de S. præd. scilicet nuper ux. præd. A.B. Et quod præd. xl. pond. feni, anglice, *the aforesaid x l. stone of Hay*, sunt valoris xiv s. & octo denar. & remanent in custodia D.F. de S. præd. gen. In cujus rei testimonium, tam Coron. quā Juratores, &c.

*Another, where one by misfortune is slain
by the fall of a Scaffold.*

*Middle-
sex ss.*

Inquisitio indentat. capt. apud, &c. Qui dicunt super sacrum eorum, quod præd. P.H. xxv. die Augusti, anno, &c. præd. apud K. in Com. præd. quoddam tabulatum de quo-

quodā Ligno voc. *Deales*, & ludibus abiegnis, anglice, *Firr-poles* fact. ad domū *J.B.* scituat. & existen. apud *K.* præd. erexit ad dom. præd. imbricand'. Et *E.W. M.C.* filiā *W.G.* infantem in brachiis suis haben. & ambuland. in via publica per eand. domū & præd. *P.H.* adt. & ibid. super idem tabulatum sol. laborand. Et præd. tabulat. putrido mearemlo fac. unū sudū ablegnarū, anglice, *one of the Firr-poles*, tabulat. præd. supportans, fregit, ita quod tabulat. præd. super caput ejusdē *M.C.* cecidit, & Cavariā capitis ipsius *M.C.* aliquant. supra aurem sinistra ipsius *M.C.* adt. & ibid. capitaliter contusit & fregit longitudinis duor. polliciū, & latitudinis unius pollicis: de qua quidē mortali contusione & fractione præd. *M.C.* instant. languebat, & languide vixit a præd. xxv. Augusti, anno præd. usque xxvii. diem ejusd. mensis Augusti super quē quidē xxvii. die Augusti anno præd. præfat. *M.C.* apud *L.* præd. in Com. præd. de contusione & fractione mortali præd. moriebatur. Et sic Juratores præd. super sacrum eor. præd. dicunt quod præd. *H.P.* præd. *M.C.* per infortuniū occidit & interfecit & contra voluntatem ejus, modo & forma præd. & quæ bona & catalla præd. *P.H.* tempore homicid. per infortun. habuit, modo & forma præd. per ips. commissi. & perpetrat. contra voluntatem ejus, Juratorib. penit. incognit. existit. In cujus rei Testimonium, &c.

An Inquisition where one drowns himself.

Inquisitio indentat. capt. &c. qui dicunt super sacrum suū, I quod præd. *A.B.* secundo die Maii, anno, &c. præd. circa *Felo de se.* horā oct. ante merid. ejusd. diei, Deum præ oculis suis non habens, sed instigatione Diabolica seduct. & mot. ex malitia sua præcogitata, apud *M.* præd. in Com. præd. adt. & ibid. sol. existen. in comuni Rivo ibid. seips. voluntarie & felonice submersit. Et sic Jurat. præd. super sacrum suū præd. dic. quod præd. *A.B.* modo & forma præd. adt. & ibid. voluntarie & felonice, ut *felo de seip.* occidit & murtheravit contra pacē, &c.

In cujus rei testimon. Cor. præd. quā dict. Jurat. &c.

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If one Hang himself, then the Inquisition, thus :

Middle-
sex ff.

Inquisitio indentat. &c. (the hour, &c.) Deum præ oculis suis non habens, sed instigatione Diabolica seduct. & mor. apud S. predict. in quodam bosco sive nemore eidem S. adjungen. adtunc & ibidem sol. existen. cum uno Fune Canabaceo pretis unius Denarii, quem ipse adtunc & ibid. in manibus suis habuit & tenuit, & unum finem inde circa Collum suum adtunc & ibid. posuit, & alterum finem inde circa ramum cujusdam arboris Querci ligavit, & seipsum adtunc & ibid. cum Fune predicto voluntarie & felonice suspendit & suffocabat, & sic Juratores pred. super Sacrum suum pred. dicunt, &c.

No forfei-
ture of
Lands.

SHE-

SHERIFFS TOURN, AND Court-Leet.

Of the Original or Institution of them.

ALFRÉD, Governour of this Nation In the year of mans redemption, 872. was the first institutor of this Court which we now determine to treat of, then called *SCIREG MOTT*, that is to say, *Lamb.* the Assembly of the Shire, *Sheriffs Tourn*, and *E.4.c.4.* sometimes called the *Sheriffs moot*. It seems to have the appellation of *Sheriffs Tourn*, of the French word (*Tour* viz. *Ambitus, Circuitus, vicissitudo*,) and is by *Britton* styled *Tour*, cap. 61. *sub fine capitis*; as if he should say, *The Sheriffs course*, or perambulation; For (as *Britton* noteth in his 29th Chapter) that which before the Sheriff is called the *Sheriffs Tourn*, is called in the Court of Franchises and Hundreds, *The view of Frank-pledge*; Wherein enquiry is *Britton c. 29 & c. 61.*

Sheriffs Tourn, and

Flet.li.2.
c.60.

Br. 21.23.
Powel.

specially made of such as be not in *Doxin* : with whom *Fleta* accords. And by *Fleta* it appeareth that this Tourn was the Sheriffs course to keep his Tourn in every Hundred, l.2.c.52. *Habet etiam rex cur suam in turnis, vic. & vicibus Hundred*, &c. And in many Books it's denomination is the Kings Leer, and Sheriffs Leer.

Two Courts were assigned to the Sheriff (by the said *Alfred*) by which two Courts the whole County was governed, viz. the County or Shire Court, for one man to have remedy against another, in any matter arising between them under forty shillings. And the *Sheriffs Tourn*, unto which every man within the County above the age of 12 years, and under 60 are compelled to come, that they might not be ignorant of the things there published (or given in charge) whereby they are to be governed; and this was called *Suite real*, by reason of their Allegiance; Unto which they were sworn to be true and loyal to the King. And it was learnedly spoken by a Reverend Judge, Justice *Flemming*, in a Speech of his concerning the necessity of *Sheriffs Tourns* and *Law-days*, who said that it was *Schola insigniendi juvenes*, a School to direct and instruct young men in the ancient Laws of the Common-wealth, and to prepare them for greater employment at more great Conventions, at the *Affize*, *Goal-Delivery*, or *Sessions of the Peace*.

*Leets, how
first granted.*

Kitch.f.6.
Dyer.f.64.
& 13.
Tir. of Law
Co.l.4.33.
Co.l.6.12.
22E.42.
F.N.B.
82.161.

Now because the people did undergo great trouble and vexation in travelling to the Sheriffs Tourn, *Leets* or view of *Frankpledge* were granted to Lords of *Mannors* within certain precincts, yet this Court, in whose Mannor soever it is kept, is accounted the *Kings Court*, because the authority thereof is originally appurtenant to the *Crown*, and thence derived to inferiour persons. And *Dyer* likewise saith, that this Court was first derived from the Sheriffs Tourn. This Court is a Court of Record in all things that appertain to the *Tourn* or *Leet*, and Sheriff of the *Tourn*, or Steward of the *Leet*, are therein Judges of Record. For whosoever hath the *Leet*, hath the same authority within the Precinct, as the Sheriff hath within the *Tourn*.

*Of the power and authority of the Judge
of the COURT.*

THe Steward, or Judge, hath a double power and authority in the Court.

1. *Election of Officers.*

2. *Correction or punishment of Offenders.*

In that of *punition*, a double Act is to be respected

1. *Actus Curie*, the Act of the Court.

2. *Actus Patrie*, the Act of the Country, or

Jury.

The authority of these two Acts do encounter with two sorts of offences or misdemeanors, being furnished with a double weapon.

1. *Fine.*

2. *Amerciament.*

The one sort of offences are } *Extra curiam.*
The other sort are } *In curia.*

1. Now, to oppose and subdue those extrinsical offences, *Extrinsical offences* viz. those that are *Extra curiam*. The Jurors that are sworn to present, have peculiar recognizance, and therefore authority and power to present them, and to assess *Amerciaments*.

2. The second weapon to oppose intrinsical offences, viz. *Intrinsical* those that are *in curia*, which offences are either in omitting offences. or neglecting a duty enjoined, which ought to be performed by the Jurors, Constables, Bailiffs, &c. or in committing some contempt, and disorder, in the face of the Court, by any Officer or Sutor.

The Steward hath cognizance, and may punish it by *Fine*, without enquiry by the Country, as,

If a sutor being sworn of a Jury, shall refuse to make a presentment there: or if he do depart without giving up his

Co.8.38. *A* his Verdict, or If he refuse to be sworn, the Sheriff or Steward reward may impose a reasonable *Fine* upon him.

fusing to

make Pre-

senment,

or refuseth

to be sworn

He may impanel a second Jury to enquire of the defaults and concealments of the first, and to *Fine* them for their offence.

For default of resiants, he may compel a stranger coming within the View, to be of the Inquest.

What may be enquired of in this Court.

THe Steward may enquire of several particular misdemeanors, comprised and enumerated in the Statute of 18 E. 2. even from the Highest Treason, to the lowest Trespas, though not here punishable. Which so far as they may concern the modern jurisdiction of our present times, such as are neither obsolete nor antequate, you shall find in this ensuing Tract, viz. In the charge of this Court. *Finch Law* 125 cap. 20. Stat. 22 E.4.22. *Mag. Chart. cap. 17.*

What things are not to be enquired of in this Court.

*No commit-
ment to*

prison, &c.

yet he may

take a Re-

cognizance

for the

Peace, Co.

Instit. 4.

fol. 263.

HE cannot enquire of the Statute of Labourers, or indict one feloniously committing a Rape; yet such Indictments must be delivered to the Justices of the Peace, according to the Stat. of 1 Ed. 4. *Bract. present. 16. Fitz. Tourn 3. 4 Edw. 4. 8 Edw. 4. 5. 22 E.4. 22. 9 H.6. 44. 8 H.7. 4.*

He cannot commit any man to prison for his contempt, neither can he take recognizance to bind a man to good behaviour, as formerly he might, and as the Sheriff in his Tourn may do. Yet *Co. Instit. 4. fol. 263* holdeth that he may take a *Recognizance* for the peace.

He cannot hold plea of any thing appertaining to the Crown, nor touching Free-hold or Lands, nor Debt, Trespasses, or otherwise. *Mag. Char. cap. 17.*

This Court cannot take Indictment of any Felons for the death of any man, or in any other case wherein it hath no cognizance; If it do, it is *Coram non iudice*, and void, neither can it take a presentment of an offence done to a Parish or a particular man. *No Indictments of felony for death.*

Such things as are Trespasses by the Statute, or offences against a Statute, the Sheriffs Office doth not extend to it here, except the Statute doth give in it an express authority to the Tourn or Leet; for, *Nulla est generalis regulas admittit exceptionem.* *28 E.3.95. 21 E.4.21. 3 H.7.f.1. Br. Leet, 19 and 25.*

Nothing but Nuisances, and Grievances, Offences or Trespasses, as are popular and common to many persons: And therefore Trespasses for breaking of Closes, nor Assaults made to a sole and particular person, is here Inquirable, except there be blood shed. *Br. Leet 26 Dyer 234. Fitz. tourn. 1.4.*

It was the occasion of a very learned Contest or Argument, *Pasch. 24. Car. B. R.* Whether a Court-Leet may enquire of private Assaults and Batteries, If there be no blood-shed in the case; Bacon Justice, and Walker an Apprentice of the LAW in the Inner-TEMPLE, held that a Court-Leet might enquire of them; But Justice Roll held the contrary, because they are actionable at the COMMON-LAW only, by the party injured, and are not publick offences against the publick. *Stiles prac. Reg.*

Upon all presentments and Indictments taken before the Sheriff in his Tourn, he hath no power to attach, arrest, or put in prison, nor to levy, nor take any Fines or Amerciaments of any person so indicted or presented before them, by reason or colour of any Indictment or Presentment taken before them in their Tourns, but the Sheriff shall bring and deliver all such Indictments and Presentments to the Justices of the Peace at the Sessions, that shall be holden for the said County; if not, a forfeiture for every one not delivered 40 l. *Dyer fol. 155.*

What

*What things are considerable in holding
Tourns or Leets.*

HAVING demonstrated what things are to be enquired of here, and what not : Now, three things are considerable in the holding of Tourns, or Leets, *viz.*

1. Time.
2. Place.
3. Persons.

1. As to the time, it must be kept twice a year according to *ALFRED*, *quotannis celeberrimus bis conventus agitur*, one Month after *EASTER*, and one Month after *MICHAELMAS*; At the Tourn after *EASTER*, no Actions popular are to be enquired after, &c. but only take their Suite, who are Suitors, and to take the view, &c. And at the Tourn after *MICHAELMAS*, then to enquire of such as are enquirable. *Magna Charta cap. 35.*

Fitz. Leet.
II.
Stat. 9. H. 3
p. 33.

2. Now to the place where it is holden, and that must be within the Precinct and Liberty, *in loco debito & consueto*, and if it be done otherwise, what ever is acted in it is void, & *coram non iudice*.

3. Thirdly, What persons are to hold in this Court; there all the Free-holders within the Precinct or Liberty are obliged to come, by the service of their Fees : and all other people above the age of 12 years, and under 60 only & 10. Ecclesiastical and Religious men, all Earls, Barons, Tenants &c. in ancient demesne, and all women are excepted because they are never sworn upon any Inquest.

Fitz. 106.
c. 161.

Fury

Jury, what.

T Here must be at the Court twelve (at the least) of the most discreet and sufficient Free-holders, such as are of repute and estimation, and have Freehold Lands within the same County of the value of twenty shillings at the least, who ought to be impannelled and sworn (by the Sheriff) to enquire of, and present all things there inquirable and presentable; who ought to take all Indictments by their Oaths, and must deliver in their Rolls and Inquisitions indented and sealed between the Sheriff (or Steward) and the Jurors. 1 R.3. cap. 4. Westm. 2. 6H.4. fo. 1.

And if there be not twelve to be sworn, the Sheriff or Steward may cause strangers that come within the view to be of the Inquest. 2H.7. fo. 4.

How Amerciaments are forfeited, and what shall be causes to amerce, &c.

A Merciamēt in Latine is called *miser cordia*, which signifieth moderation and mercy, because it ought to be assessed mercifully, and ought to be moderated by assentment of his equals (otherwise a Writ *de moderata misericordia* lieth, which Writ and the Law in that case is grounded upon the grand Charter cap. 14. *Quod nullus liber homo amercietur nisi secundum quantitatem delicti*: or because the party offending putteth himself on the mercy of his Majesty. And the difference betwixt a Fine and an Amerciament is, That a Fine is assessed by the Court, but an Amerciament by the Country; For Amerciaments are to be imposed per juramentum legalium hominum de vicineto. Co. on Litt. 2. c. 11. p. 194.

Glanvil in his Book saith, *Est autem misericordia domini regis qua quis per juramentum legalium hominum de vicineto eatenus amerciand. est.* And Fleta lib. 1. cap. 48. saith, *Quod liber homo non amercietur nisi per sacramentum parium suorum.* And with these agreeth, Co. part. 8.
Bracton

Eraston lib. 3. cap. 1. Fitz. F.N.B. fol. 72. And if the Steward set an Amerciament upon a man on his own head, it is void : By which authority, it plainly appeareth that Amerciaments are to be imposed by a Jury, or by the oaths of good and lawful men : and therefore I have much admired, when sometimes I have seen Stewards assume upon themselves to set down Amerciaments without the assistance of the Jury, which Act, was directly opposite to the great Charter of *England*, and contrary to the said Authorities of *Law*.

Of Amerciament.

BUT to demonstrate the cause of Amerciament, *viz.* The not appearing at a Leet is a good cause to amerce a Resiant, and the Lord who distrains for the amerciament needs not to shew for what he distraineth, because the tenant hath tendred something for amends, although the tenant doth not know the cause. *43 E. 3. 9. Avowry 80. vi. 11. H. 4. 4. 89. 12 H. 7. 15.*

89. 12 H. 7. 15. If a man be amerced for a thing done in a Town wherein he dwelleth, he may be distrained for it in any place within the Hundred or Leet, *11 H. 4. 88.*

11 H. 4. 88. A Suitor at a Leet may be amerced for not presenting things presentable, being sworn with others, and a general Avowry, but he may say, that there was nothing to be presented *11 E. 3. 9. Avowry 155. 10 H. 6. 7. Co. lib. Entries Debt, 139. Co. part 8 Grisleys case.*

11 E. 3. 9. Avowry 155. 10 H. 6. 7. Co. Rep. 8. Grisleys case. A.B. was amerced in a Court-Leet for receiving and keeping one in his house, who was not sworn to the King : in which case it was holden, that no good should be distrained for this Amerciament, but only the proper goods of the party amerced, although the goods of others, were levant and couchant on the ground. *41 E. 3. fol. 26. Br. Leet 4. and in the 47 E. 3. fol. 11.* The Prior of *Tindal's Case*, where the Prior was amerced, and another man's goods were taken and distrained on the grounds of the Prior for the said Amerciament, and the distress was not

not well taken ; for a Fine or Amerciament are collateral duties, and attend upon the person, and do not charge the Soil.

A Resiant was amerced for not cleansing of a Ditch, and pain levied upon him, that he cleansed it after, and a distress taken for not doing of it, &c. 29 E.3.36. 41 E.3.26.

29 E.3.36.

Resiants and Tenants may be amerced in the Leet for refusing to swear, 38 E.3.18. *Consuance* 23.

41 E.3.26.

The Lord of a Leet shall not prescribe to amerce the petty Jury for their false Verdict, the same being found by the grand Jury, for it is no good custom ; but they may be amerced for concealing of any thing which is presentable there, and this is by custom, M.9 H.6.42. *Custom*.

An amerciament in a Leet may be well levied by an action of Debt, 12 H.2. *Lry* 43. 10 H.6.7.

9 H.6. 42.
Custom.

One was amerced for brewing Ale, and selling it contrary to the Assize within the Hundred, and it was holden, that although he was resiant within another Leet, yet the amerciament is good where it is made, so it is where one sells Bread and Ale in a Market which is in another Leet, then where it was brewed, &c. *Aff*. 13 E. 3. *Avowry* 105.

Aff. 13.

E.3. *Avowry* 105.

W. brought an action of Trespass against H. the Defendant justified, that the Plaintiff was a common Baker, dwelling in T. in the County of N. and that it was presented in a Leet, in that he had sold Bread against the Assize *in locis vicinis*, whereupon he was amerced, and by amercement assized to 10 s. and that by a precept out of the Court, he did distrain the Plaintiff, and the Court gave judgment for the Plaintiff, because it did not appear, that the offence was committed within the Jurisdiction of the Leet, which should have been specially pleaded, but perhaps the presentment in the Leet is good, without special mention in the presentment that it was done in the jurisdiction, if the truth were so : and note, that the presentment was not so full and perfect. And it was noted by *Hobert* that the plea was absurd, for it is said, that he was amerced without saying (what,) and that the amerciament was assized to 10 s. for which he distrained. Now the Jury must amerce to a certain sum which may be mitigated and assized by others, and thereof these offices cannot be confounded, *Hob. rep. fol. 129. Wilton & Harding*.

Plac. 14.
Jac. Rot.
15.1.

Sheriffs Tourn, and

If my Horse be in the keeping of another man, he may be distrained: if I be amerced in the Leet for stopping the Highway, &c. 47 E.3.12. But if an Inn-holder be amerced, the horse of a stranger cannot be distrained, 10 H.7.f.21.

By 3 H.7. f. 4. A Distress taken for an amercement in a Leet or Law-day, may be sold as well in the case where the subject hath by Charter or prescription the profits of the said Courts, as where the King himself hath them; and all the reason, which that book yieldeth for it, is, because they be the Kings Courts: but a distress taken for an amercement in a Court-Baron cannot be sold; and in 22 Affix. plac. 72. It is said, that if one recover a debt in a Court-Baron, the goods of the debtor could not be sold for it: Yet I have seen always in practice, that for debts and damages recovered in the County-Courts, the goods of the debtors have, and be usually sold for them by *Levari facias*, which (I believe) is used *per totam Angliam*: and a sale, in such a case in Court-Baron is good; and with this agreeth the book of 7 H. 4.f. 27. and 21 H. 7. f. 40. in a Court-Leet one prescribed and alledged a Custom, to have of every one which made an affray within his liberty, a certain sum of money, and prescribed also to distrain for it, and to sell the distress, and with this agreeth 11 H.4.14. and 11 H.4.f.2.

Note, That in 8 R. 2. *Avowry* 194. If one be amerced in the Sheriffs Tourn, the Sheriff may distrain throughout the whole Country; and in like manner if the amercement be in a Leet, throughout all the precincts of the Leet.

The Statute of 1 E 4. expressly appoints, that no fine or amercement in the Tourn or Leet shall be levied, unless it be certified at the next Sessions of the Peace by *Indenture* enrolled there, and by process made from the Justices of the Peace to the Sheriff or Steward.

How Presentments in Leets shall be traversable.

A Traversal is a plea of the party, containing matter to the contrary of that, that the party stands accused of, or which is laid to his charge.

Note,

Note, *Scard* saith, That if a thing be presented at the day in a *Leet*, this is as *Gospel*, if it pass that day without being repealed: And therefore if a false presentment be made, he shall have an Action of false imprisonment the same day against the prosecutors, but if he stay until another day it is otherwise: and he who is amerced there for purpresture, or other Nuisance in *Avowry*, for the amercement he shall traverse in no point. *Wilby*, If it be presented, that he hath levied a Ditch over the High-way, if the presentment be false, he shall have trespass against him who throws it down by force of such presentment: And so of my house abated, by reason of such false imprisonment, *Hill-21 E.3. Bar.271.*

In some cases the books and authorities of Law admit the party to traverse, and in other cases the same is to be denied: for in the 5 *H. 7. fo. 9.* and 45 *E. 3. fo. 8.* and 28 *H.8. Dyer fo. 13.* if one be presented in a *Court-Leet*, for a blow or any other personal wrong, this Presentment is not traversable, but the party is without remedy therein, though the presentment be false, and the matter of it untrue; and the Law is also of such a presentment made in the Sheriff's Tourn: and herewith also agree the books of 2 *R.3.11.* and 19 *H. 8. 11. Fitz. Affix. plac. 442.* and 8 *E. 4. 5.* and the reason thereof (for *ratio legis, est anima legis.*) is delivered in 5 *H. 7.* because no Process is there awardable against the party to call him to answer: yet in the same book of 5 *H. 7.* it is said, *That if a Presentment be made which toucheth a mans Freehold, he may there traverse the same.* But, I take it, the party must first remove the presentment into the Kings Bench, and there traverse it; for in the *Court-Leet* there can be no traverse taken or tried, no more where the presentment toucheth Freehold, then where it duely concerneth a personal wrong; Therefore the reason alleadged in 5 *H. 7.* according to the opinion of *Callis* in his reading upon the Statute of *Sewers, fo. 169.* cannot be the true cause wherefore in personal wrongs the presentments cannot be traversed; but the very true reason therein is, because these petty presentments, be of such petty trifling matters, that in avoidance of trouble, the Law esteemeth them not worthy of traverse and tryal, *de minimis non curat lex*; and Justice *Fairfax* in 5 *H. 7.* is of Opinion, *That a Presentment made before Justices of Peace in a Sessions is traversable*; and with this agreeeth

Stan-

Stamford. fol. 183. and in other Courts of Law, there oftentimes fall out matters which one shall not be admitted to take a traverse unto, and in some other cases he shall, as by these succeeding authorities may appear. Now, I must crave your pardon (Candid Readers) for a Digression, there is nothing of it but may come within your case at one time or other. In the 37 *Affiz. plac. 7.* A presentment was taken before *Green* and *Ingham*, Justices of the King-Bench, That *J.S.* who had killed *A.* had goods to the value 80 *l.* in the hands of one *John Lumbard*; and upon this presentment a *Scire facias* was awarded against *John Lumbard*, to shew cause wherefore these goods should not be seized to the Kings use: *J. Lumbard* came in & tendred a plea to the presentment, that these goods were not the felons, but that they were delivered to him to keep to the use of a Cardinal of *Rome*, and he was there admitted to this plea; and with this agreeth 45 *E. 3. fol. 26.* expressly: yet in that book, and *Stamford. fol. 185.* it is holden for Law, that if it be presented before a Coroner, that *I.S.* killed *A.* and fled for the same fact, and after, upon his Tryal he is quit, yet he shall forfeit his goods upon the *fugam fecit* before the Coroner, and he shall not be received to take any traverse to the said presentment in that point. The difference in which two cases is this, That a stranger, as *John Lumbard* was, in the first case, shall not be peremptorily concluded; for it were no reason one mans goods should be forfeited in another mans default, and he should have no answer thereunto: but in the other case, in terror of Felons, though he be acquitted of the felony, yet he is not acquitted of the flying, and he may be guilty notwithstanding his acquittal. There be other Cases in the Law, which admit no traverse, as in *Baggs* case, *Cooke 11. rep.* where a writ was directed to the Mayor and Burgesses of *Plymouth*, to restore *Baggs* to his Aldermans place there, which they had put him from, and they return a cause sufficient to barr him, which notwithstanding is false; yet he shall not be received to his traverse therein; neither could a traverse be admitted in the certificate of the Bp. wherein was contain'd, that *I. A. Parson* of *D.* had refused to pay his Dines to the King, by means whereof the Parson lost his Benifice, which case is in *Br. cases, temp. H. 8. pl. 332. & Dyer fol. 116. & 7 H. 4. fol. 4. & 21 H. 7. 8.* and many other books be, that no averments shall be taken

taken to the returns of Sheriffs, to take any issue thereupon: yet by the opinion of those Books an Action upon the Case lieth against the Mayor and Burgesles, and against the Bishop for their Certificates, and against the Sheriffs for their false returns; and if Justification be made by them, they may be traversed: But these will not reduce the parties to their former liberties, viz. not the Alderman to his place, nor the Parson to his Church; but damages in those cases are only recoverable. But now to return to the Tract from which I have a little deviated.

He who is amerced in a *Leet*, may traverse the resnancy, but he shall not say, that the place where, &c. is within another view, 4 E. 3. 12. 10 E. 3. 5. 41 E. 3. 26. But if he hath been sworn in my *Leet*, he shall not have traverse. 4 E. 3. 31. 10 E. 3. 9.

*The Method of keeping the Sheriffs Tourn,
or Court-Leet.*

L Et the Sheriff (or Steward) make a Precept unto the Bailiffs, to summon the Court by a reasonable time: to wit fifteen or sixteen days before the Court be kept (if it be less time it is sufficient in Law) the Precept must be made according to this subsequent President.

A.B. *Ar. Vic. Com. Ebor. ballivo libertat. sive wapentag. de S. salut. Tibi mando quod diligenter premonire fac. Cur. cum vis. Franc. pleg. tenend. infra libertat. predict. xvi. die August. sequent. circa horam octav. ante merid. ejusd. diei apud comm. Tolbooth de R. Et hoc, &c. dat. sub sigill. offic. mei. xxviiij Julii, anno Reg. Regis Car. sec. Dei gratia. Angl. Scot. Franc. & Hibern. fidei defensoris, &c. xiv.*

Per Vic. Com.

If it be in a Court-Leet held in a particular Hundred, or Mannor of any Lord, then the form of the Precept is thus,

X

A.B.

Court-Leet.

A.B. Gen. Seneschal. I.N. Ar. Hundred, five Man. sui de O. Ballivo ejusd. Hundred five Man. salut. tibi mado quod diligenter præmunire fac. hanc Cur. cum vis. Franc. pleg. Hundred five Man. præ. tenend. ad locum consuet. de S. xvi die Aug. prox. sequent. Et hoc &c. dat. sub sigill. meo xxviii die Julij anno Reg. Car. secund. Dei gratia Ang. Scor. Franc. & Hibern. Regis fidel. defensoris, &c. xlv.

By me A.B. Steward.

After the Steward hath placed himself in the Court, he must enter the Court in the title of the beginning of the Court-Roll, with the name of the place where the Court is holden, in this manner :

Ebor. ff. *Visus Franc. pleg. cum Curia A.B. Ar. vic. Com. præ. tent. apud D. die Martis decimo-sexto die Martii, anno regni Domini nostri Caroli secundi, Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ regis, fidel. defensoris, &c. decimo-quarto, &c. Anno Dom. 1662.*

Per eundem Vic.

Ebor. ff. *If in the Lords Court, then thus : Visus Franc. pleg. cum Curia I.N. generosi domini ejusd. ibid. tent. die Mercurii, &c.*

Per A.B. Seneschallum.

Then cause the Bailiff to make three Proclamations repeating them after the Steward in this manner.

Proclamation.

ALL manner of persons who were summoned to appear here this day, to serve our Sovereign Lord the King and the Sheriff, (or the Lord of the Mannor,) for his Court now holden, draw near and give your attendance, and every one of you answer to his name, as he shall be called, upon pain and peril that may fall thereon.

After all are called and those that are absent be marked to be

be amerced, then the Steward shall cause the Bailiff again to make other three Proclamations, viz. O yes, &c. causing the Bailiff to say :

Proclamation.

IF any will be *Essoyned*, come into the Court and you shall be heard, and all such persons as were *Essoyned* the last Court, let them come in now and warrant their *Essoyns*, otherwise they will be *amerc'd*. And if any desire to be *Essoyned* by the *Tithingman*, or other neighbour, then for the first Court they may be *essoyned*.

The *Essoyn* must be entred in this manner :

A.B. *per C.D. essoniatur de communi, &c.*

Inquire if there be any tenant in the *Mannor* that hath any action or cause of action, since the last Court day, let him put in his plaint *sedente Curia*, viz. the Court sitting, and it shall be entred. *Inquiries.*

Inquire if there be any Precepts, attachments, or distresses depending in the Court rolls, call them openly in the Court, and know, if the Bailiff have executed them.

Also if here be any old Plaints depending in the Court roll before this Court holden, cause the parties to be called, before the Inquest be charged,

Then impanel the *Inquest*, commanding the foreman to lay his hand upon the book, swearing him as follows.

You shall swear, that you shall diligently inquire, and true presentment make of all such things as you shall be charged with, concerning our Sovereign Lord the King, or the Lords Court of the Mannor) you shall well and truly keep his Majesties Counsel, your fellows and your own ; you shall not conceal nor hide any thing for favour, fear, promise, or affection you bear to any person or persons, or present any thing for hatred or malice you bear to any man : but you shall present and tell the truth, according as things may or shall come to your knowledge by information, or otherwise : making a true presentment thereof without concealment : so help you God, &c. *The Oath of the foreman of the Jury*

After the fore-man is particularly sworn, cause four (at

once) of the Inquest to lay their right hands together on the Book, swearing them in this manner.

*The oath of
the rest of
the Inquest.*

The same oath which A.E. your fore-man on his behalf hath made, you and every of you shall well and truly keep on your behalfs : So help you God.

Swearing the rest accordingly.

After they are all sworn cause the Bailiff to number them as the Steward doth read them.

Then command the Bailiff to make Proclamation, saying after the Steward.

Proclamation.

YOU good men that are impannelled to enquire for our Lord the King, and for the Lord of this Court or Law day, draw near and hear your charge, all the rest keeping silence whilest the Charge is in reading, upon pain and peril that shall fall thereon.

Before the charge gather the *Common Fine*, which the tenants do pay every *Leet* or Law day, according to the custom of the Mannor.

The Exhortation before the Charge.

My Masters,

YOU of the Jury, the charge which you by oath have promised to observe, toucheth, and concerneth divers good Laws and Statutes instituted and made for the preservation of the publick Peace, and also for the private tranquillity of every one of you, and your posterities, which matters the Sheriff (or the Lord of this Franchise) considering and wishing your security, and desiring likewise good orders to be observed and kept amongst you, that right and equity may be administered to every of you, hath therefore caused his Majesties *Leet* to be summoned and kept here this day : I will therefore, by your favour, before I enter upon the principals
of

of your charge, declare unto you, by what authority you are brought hither, and wherein you are obliged to observe.

The causes hereof are two.

1. The first is, for that his Majesty and royal predecessors, have given and granted unto the Sheriffs (*or Lord of this Mannor*) authority and power to keep a *Leet*, or Law day, twice in the year, at which *Leet*, or Law-day, all the *Head-borough*, *Tithingmen*, and *Disners*, and all other persons that are resident or inhabiting within the Jurisdiction of this *Leet*, being above the age of twelve years, and under the age of sixty, are bound by the Laws of the Kingdom to appear : to the intent that the Laws and Statutes may be there published and declared, so that knowing the dangers of the not observing them, they may avoid divers inconveniences, which otherwise would have much prejudiced them : and further to inquire of the breakers of the same : and present them, that such offenders may receive condign punishment.

The other cause or authority is, for that you being the Lords tenants, are bound by reason of your tenure at the Lords *Court-Baron*, when it shall happen to be kept according to law, that is to say, at every three weeks end, (*or according as the custom is*) and being here by these two authorities, you are bound to serve in all such things, as you are legally and jointly charged withal, as well concerning the Kings *Leet*, as the Lords *Court-Baron*.

Now to the intent that you may have better cognizance of your oath, I think it convenient (with your patience) to insist a little upon it.

*What things are to be considered by a Jury
in swearing.*

IN swearing three things are principally to be considered.

1. That you swear, to exclude all favour and affection to the parties, not fearing the rich, nor pitying the poor, nor considering the simplicity of any person, nor the smallness of

*The first
considera-
tion.*

of the offence, but having an affection to truth before your eyes, declare that which is truth to your knowledge; and no further.

*The second
considera-
tion.*

The second is, you must swear in righteousness, viz. for the very zeal and desire you have in declaring the truth, for the executing of Justice, for the observing of Covenants, honest promises, Statutes, Laws, and good Customs, and having a respect in doing and performing these things; you do that which tends to the glory of God, the honour of the King, the preservation of the People and Common-wealth: which kind of swearing is the Mandate of the Almighty. *Thou shalt fear the Lord thy God and serve him, and shalt swear by his Name.* That is, we must only serve and fear him, acknowledging his holy Name, which is done by a legal swearing. It is also commanded in many places of divine Writ, but conditionally, (to wit) we must swear in truth, in Judgment and righteousness, &c.

Deut. c. 6.

*The third
considera-
tion.*

3. In swearing, and taking an Oath, you must do it with Judgment, not rashly nor unadvisedly, but soberly, and with caution, considering what an oath is, which, in brief, I will declare to you.

*What an
Oath is.*

*Hebr. cap.
6. v. 16, 17.*

An Oath is, the recording or calling to witness the Name of God; to confirm the truth of that we say, and according to the testimony of St. Paul, *An oath for confirmation is among men an end of Strife.* For in ambiguous and obscure matters, where the knowledge of men is brittle and falleth, we betake our selves to God, that he which is the only Truth may give a Testimony unto the Truth, and he that useth God for a Witness, doth also call for revenge of perjury at his hands, if he deceive and speak not the truth: Now, at the imposition of your hands upon the Book, you swear, truly to enquire and make a true presentment of these things wherewith you are charged, and not to let from declaring the truth, either for favour, fear, affection, or envy of any person: consider, that in this Book is recorded Gods eternal verity, whereby we have remission of errors and offences and an enjoyment of eternal Salvation. I am confident of your knowledge of the plagues and threats (in the Gospel) to the obstinate, and perjured, bearers of false and unjust testimony, condemners of innocent and guiltless persons; so that if you voluntarily perjure your selves, you absolutely

solutely deny God, his mercy, truth, and the merits of our *Saviour*, betaking your selves, and adhering to that Destroyer of mankind, the *Devil*, the author of all perjury and perfidiousness: and by forswearing and forsaking the truth, you forsake *Christ*, the light and truth it self. And although that perjury doth escape sometimes unespied, and unpunished, and be kept secret between some of you and others, yet your hearts will judge and repute one another false, and be suspicious of each others actions. But God (*that faithful one of Israel*) will not deny himself, neither will he suffer the profanation of his *Name* to go unpunished; when at the last day the secrets of all mens hearts shall be apparent, then the truth and your consciences shall be your accusers, and *Christ* the righteous Judge shall condemn you to eternal death and damnation. Which sin of *Perjury* the Most High by his Prophet hath threatened to punish. Thus referring this to your serious considerations, and not to trouble you with prolixities, *Verbum sat sapienti, a word's enough to the wise*, I will proceed and declare to you the Articles of your charge.

The Charge of the Court-Leet.

YOU must understand, That *High-Treasons*, *Petty-Treasons* and *Felonies*, which are against our Sovereign Lord the King, are to be required of and presented to this Court; but not punishable here, the which offences you must set down in writing, indented and sealed, the one part to remain with the *Steward*, the other with the *Jury*, and the same must be delivered to the Justices of the next *Affizes* holden within the *County*.

Charge of the Court-Leet.

Judgment.

High-Treason.

1. You shall first enquire Death, and forfeiture of all of *High-Treasons*, as if there their goods, and chattels to be any among you that do the King, as well real as personal, moveable and unmoveable, corn growing, and all their debts due to them; *sc.* all such consenters, or to levy war goods and chattels, &c. as they had at the time of their attainer, the death of the King, Queen, or their Children, or of their consents, or to levy war against his Majesty, or be adherent to his enemies.

2. If any counterfeit the Death, and loss of goods; Great Seal of England, or Monny of this Nation, or do clip, wash, or round the same, but of Lands during life only, and no corruption of blood, nor forfeiture of Dower.

Petty-Treason.

3. If a Servant kill his Master or Mistress; or if a woman kill her Husband, it is petty treason, and here inquire Death, the Escheat hereof appertains to the Lord of the Fee, for such treasons touch not his Majesty himself.

IF

Charge of the Leet.

Judgment.

4. If one kill another in his own defence, or by accident, it is here to be enquired of as blood-shed, &c. *Stamf.*

Loss of goods in both, and charter of pardon must be purchased for it. Stat. of Glouc. cap. 9.

Felony.

15. 4.

5. If any Man ravish a Woman, whether Wife, Widow, or Maid, though she doth afterward assent, it is here inquirable as Trespass. And their aiders and abettors are to be enquired of.

Death, and the loss of Goods Rape. and Lands, the benefit of Clergy is taken away, by the Statute of 18 Eliz. cap. 6. The aiders and abettors shall receive the like punishment as well as he that committed the fact.

6. Burglary are those, who in the time of peace, or in the night time with a felonious intent to rob or kill, do break any Houses, Churches, Walls or Gates, it is here inquirable. *Stamf. fo. 30. b.*

Death, and loss of lands Burglary. and goods, and so shall their accessory.

7. Petty Larceny, is the felonious intent of taking of any thing under the value of twelve pence, as, Capons, Pigs, Hens, and such like, or clothes off hedges, and is here enquirable.

The punishment is corporal, as Petty-Larceny. whipping, and loss of goods, if they have any, for the Law suffers no offence to escape unpunished.

8. Putting out of Eyes, cutting out of Tongue, or disfiguring any Member, to the intent they should not see nor speak is here inquirable, as blood-shed.

Judgment of death, and loss of Phisnomy lands and goods, 5 H. 7. defaced.

9. Misprison.

Charge of the Leet.

Judgment:

Misprision
of Treason.

9. Misprision of Treason, is, If any know of Treason, and concealeth it four and twenty hours, you are to enquire of it.

Loss of goods and chattels for ever, of lands during life, and perpetual Imprisonment, no bail being admitted.

Sorcerers
and Conju-
rers, Wit-
ches.

10. You are to enquire of Conjurers and Witches, and such as practice Diabolical Arts, or any Incantments, whereby any person shall be killed, destroyed, or consumed, it is Felony in them, their abettors and concealers.

Death, grounded upon the Law of Moses, Exodus 21. 18. and Leviticus 20. 27. and loss both of lands and goods, 5 Eliz.

Some of our Pulpit temporizers would make Astrology (that sublime science) one of the number; but the Law is not guilty of their ignorance.

Sacrilege

11. The taking away of Ornaments feloniously out of Churches or Chappels, is here inquirable as Felony.

Death, no benefit of Clergy, Frustra petit auxilium Ecclesiae, qui peccat contra Ecclesiam.

Taking of
Doves,
young Pidgeons,
Goshawks,
fish,
Cignets,
Swans, Pea-
cocks, dome
stick Deer,
and Robbery

12. The felonious taking of Doves in Dove-houses, young Pidgeons, Goshawks out of their nests, taking of Fish out of ponds, Stews or Trunks, (but in a common River otherwise) or taking Cignets, Swans marked, Peacocks, or any domestick Deer, knowing it to be so, and setting upon one in the High-way, though he take but the value of a penny is Felony, and are here inquirable.

Death, with the loss of lands, goods, and chattels, and the like to their accessory. 18 H.8. cap.2. Coke 3. Instit. 107.

Burning of
Houses or
Barns.

13. If any one feloniously burn any dwelling house, or barns, or stacks, or mowes

Death, and loss of goods and lands.

Charge of the Leet.

Judgment.

of Corn in the night-season, it is felony at the Common-Law, and by you to be inquired of.

14. You are to enquire if any one procure or command another to commit the felony, though he be not present when it is perpetrated, he is said to be an accessary before the fact : or if any receive or aid a Felon, having knowledge of the fact which he committed, he is an accessary after the fact, *Stamf. 40.*

The judgment is the same Accessaries is against the Felon, according to the merit of the fact.

15. If any be arrested for Felony, or any other Crime, and afterwards the party in whose custody he is, tolerates him to go at large, this is a voluntary escape, and inquirable.

It shall be adjudged against him that suffered the escape, as if he were the offender, Stamf. fo. 33.

Escape voluntary.

16. If one be arrested for Felony, and escapeth contrary to the will of the arrester, and is not followed with fresh pursuit, nor taken before the pursuer loseth sight of him: this is inquirable.

Tough he be afterwards taken, yet is it finable according to the quality of the offence.

Escape negligent.

17. If any rescue and set at liberty any person apprehended, and arrested for Felony, it is Felony in the Rescuer, and here inquirable, 1 H. 7, 9.

The same judgment is as in a voluntary escape. Rescued.

18. These things mentioned in this first part of the Charge, are here to be enquired of and presented, but not punishable here, but are to be certified by the Steward to the Justices of the Peace, at the Sessions next ensuing. But the matters contained in the subsequent part of the Charge, are here in this

this Leet to be enquired of, presented and published, but not certified as is the part preceeding. And these are grounded upon the Common and Statute Laws of this Kingdom.

Charge of the Leet.

Judgment:

Constables,
Tything-
men.

19. It behoveth you to enquire, if the Constables and Tythingmen have not been remiss in executing their Office upon Vagabonds, Rogues and sturdy-Beggars, that have com'n within their Liberty and Charge;

For every such neglect or default they ought to forfeit 20 s.

You ought also to enquire of those that sustain and feed them.

The penalty is 10 s. for every time they give alms to such.

Stocks.

20. You shall enquire if there be in every Tything a pair of good and sufficient Stocks according to the Statute, for the severe punishing of idle persons.

If there be not, the Tything loatheth 5 l.

Hue & Cry.

21. Whether Hue and Cry after Theeves and Robbers hath been duly pursued, lyes next in your way, to enquire of, presenting them that made default.

The penalty or forfeiture of such default 5 l.

Common
Nuisance.

22. All Purprestures are here enquirable, which are either in eligendo, or destruendo, either in setting up, or casting down any thing which may end to a publick annoyance, as in levying of Ditches or Hedges, or by making or filling up of Ditches, or if Walls, Houses, or Pales be made and cre-

The party offending for every time so doing forfeiteth 20 s.
33 H.8.c.17.

sted

Charge of the Lees.

Judgment.

sted, or thrown down, or any ways or paths opened, or stopped to the damage of the people, or if any waters be stopped or diverted out of their right course; or if the common Rivers or watering-places for Beasts be corrupted and annoyed with Hemp, Hay, and such like; or if any encroachment be upon the Kings-High-way, or any carrion or unwholesome thing be cast into the same.

23. Inquiry is to be made of the defect of Bridges or Causeways decayed or broken down, and who ought to repair them.

The penalty is according to the Bridges discretion of the Jury upon view. decayed.

24. Inquiry also is to be made, if Common Pounds be good and close to retain such distrefs as shall be brought to them, until they be delivered thence by order of Law, and to present such as ought to keep them in such order if they be taken.

This is also referred to the Common-Juries discretion. Pounds.

25. And forasmuch as High ways (especially in Winter) are very troublesome to travel in, it was enacted the 1. 2 Ph. M. c. 8. That the Constables and Church-wardens of every Parish within this Commonwealth should yearly upon Tuesday or Wednesday in

Every Surveyor neglecting his Office, and making default, forfeits 20 s. Surveyors of High-ways.

Easter

Charge of the Leet.

Judgment.

Easter week assemble a number of the Parishioners, and elect two honest men of them to be *Surveyors* of the Highways for one year, and that they shall have authority to direct the persons that shall be appointed for the mending and repairing of them, according to their discretion, faithfully executing their Office.

Every person for every *Plowland* in tillage or pasture within the Parish, and every person there keeping a draught or plough, shall send every day (that the ways are in mending) one Waine or Cart, with all necessaries convenient to carry things, and also two able men with the same.

The penalty for every draught making default, is 20 s.

Ditches, hedges, and high-ways kept and scoured.

Every other Householder, Cottager, and Labourer, not being an hired servant by the year, shall by themselves, or one sufficient Labourer, upon every of the said days work there.

The penalty for every one making default every day, 8 d.

26. You shall enquire if any Hays, Fences, Dikes or Hedges, next adjoyning on every side, to any high or common-ways, be not from time to time ditched, scoured, repaired, and kept, and all trees and bushes growing in the High-ways, be cut

Every person not so doing forfeiteth 20 s. 18 Eliz. 9.

down

Charge of the Leet.

Judgment.

down by the owners of the ground or soil, whereby the ways are opened, and the people may have a more easie passage.

27. You shall further enquire, if any ancient bounds, or Land-marks be withdrawn and taken away, such as distinguish or divide Hundreds, Parishes, Tythings, Commons, Common-Meadows, and Common-Fields, to avoid confusion, and consequently dissention.

18 El. 2.

28. You shall further enquire, if there be any common breakers of hedges or fences, by which their neighbours ground is made subject to the incursions of Cattel, which are the grounds of many actions of Trespas, to the disturbance of the Peace of the Kingdom.

29. You shall also enquire of the breach of any common Pound to take away distresses out of it, though the distresses be without cause. Or if any shall rescue, or take away by force any cattel, which, is distrained for any rent, amerclament or other cause, before it be in custodia legis, in the custody of the Law, or impounded, it is presentable.

Fined according to the discretion of the Jury.

Such offenders are to be Hedge-stocked and whipped.

Fineable according to the discretion of the Jury.

Or a writ de parco fracto, lyeth against him at Common Law. F.N.B. 130.

30. You

Charge of the Leet.

Judgment.

Blood-shed. 30. You shall also enquire, if any assaults be committed, whereby bloodshed ensue: h to the disturbance of the people of this Kingdom which are here enquirable.
1 R. 3. fo. 1.

The fine for the offence is according to the discretion of the Jury, but commonly it is 3 s. 4 d.

Rescous. 31. You shall further enquire if any Rescous were committed upon the Sheriff or his Bailiffs in disturbance of them, from the taking and detaining any person arrested.

An action lyeth against the offender at the Common-Law.

Common-Barretors. 23. You shall enquire if there be within the Precincts of the Leet, any Common-Barretors, such as are common incendiaries of strife, and discord amongst their neighbours, and are ever fishing in troubled waters, they are of both sexes, scoulds, brawlers, inventers, and dispersers of calumnies, and reports, whereby discord and inquietude ariseth in the County.

Such persons must give Sureties for their good behaviour, being disturbers of the Peace.

Ale-house keepers. 33. You shall enquire if any Ale-house keeper, &c. have permitted any Inhabitant or Townsman (except Labourers and Handicraftsmen, or persons invited by Travellers) to continue tipping or drinking in any such house.

The pain or forfeiture of the Ale-house keeper, for every such offence (to the use of the poor of the Parish) 10.

34. You shall enquire if He that is convicted thereof, any

Charge of the Leet.

Judgment.

any buy, or cause to be bought any victual, or other thing, coming towards any Fair or Market to be sold in the same, or shall make any bargain, contract, or promise, for the having or buying the same, before it shall be in the Market, &c. such shall be adjudged a *Forestaller*.

is for the first time to be imprisoned for 2 months, and the loss of the value of the thing sold. *Forestaller.*

The second time imprisoned by the space of half a year, and shall lose the double value of the goods, &c.

The third time during his Majesty's pleasure, and judgment of the Pillory, forfeiting all his goods and chattels. See Stat. 5 E. 6. cap. 14.

35. You shall enquire if any regrate any corn, butter, cheese, or other dead or quick Victuals whatsoever, that shall come to any Fair or Market to be sold, and doth sell the same again in any Fair or Market, holden in the same place, or within four miles thereof, shall be adjudged a *Regrator*.

The judgment of a *Forestal-Regulator*.

36. You shall enquire if any do ingross and get into their hands, or promise taking, (unless it be by demise, grant, or lease of Land) any Corn growing in the Fields or otherwise, butter, cheese, or other Victual, to the intent to sell it again, shall be reputed an illegal *Ingrosser*.

The same judgment of a *Forestal-Ingrosser*.

37. You shall enquire if

For the first, second, and any

Charge of the Leet.

Judgment.

Affize of
Bread.

any Baker shall make and put to sale any Bread which is not of good and sufficient weight, and affize, according to the rate and prizes of corn and grain in the Markers adjoyning, or such as is not wholesome nourishment for Man. And that he set his own signet upon every loaf of bread that he vends, to the end that if it want weight, it may be known in whom the fault lyes.

third time he shall be amerced according to the merits of the fault, and shall from time to time lose his bread so found deficient in weight.

But if he transgress the fourth time, then must he in the open Fair or Market stand upon the Pillory.

Brewers.

38. You shall likewise enquire if any Brewers or Tiplers do not keep and observe the Affize of Ale and Beer, and that it be made healthful for Mans body, not setting the same to sale till it be tasted by the Officer (called the Ale-taster) in that behalf appointed, according to the Laws and Statutes of this Kingdom, 5 H.4. 58. Edw. 3.

For the first, second, and third time he shall be amerced.

But for the fourth offence he shall go to the Tumbrel.

Vicuallers

39. You shall further enquire if any Vicualler, together with Poulterers, Cooks, Butchers, Bakers, or Brewers, have conspired or made oath not to sell any Vicualls but at certain prices; enquiring likewise of the like conspirators of Artificers and Labourers, to do but certain

Every such person so doing, being thereof lawfully convicted, shall forfeit for the first offence 10 l. within six days after conviction, or 20 days imprisonment, having only bread and water for his sustenance.

For the second offence 20 l. or else to stand on the Pillory, work

Charge of the Leet.

work in a day, and that at certain hours.

mous person, and his oath not to judgment.

40. You shall inquire if any Inn-holders or Hostlers, sell their horse-bread, hay, oats, beans, pease, provender, and all kind of victual, both for man and beast, for reasonable profit, having respect to prices in the market.

41. You shall enquire if any Butchers do sell any manner of corrupt victuals, or any contagious fish, that dyeth of any Murrain or any other disease, or kill and sell the flesh of any Bull unbaited, or do puffe and blow up meat with their breath, whereby it proves deceitful and unwholesome.

He shall not kill any Calf to sell, being under the age of five weeks.

Neither shall he use the craft or mystery of a Tinner, during the time he is a Butcher.

42. You shall likewise en-

Judgment.

And for the 3d offence 40 l. or the Pillory, and to lose one of his Ears, and ever after to be taken as an infamer credited in any matter of

For the first offence to be fined Inn-holders according to the quality of the ders. offence.

The 2d conviction, imprisonment for one month without bail.

The 3d to stand on the Pillory.

And the 4th after judgment of the Pillory given, he shall be forejudged from keeping any Inn again.

Fine-ble.

Butchers.

The forfeiture for every Calf so killed and sold, is 3 s. 4 d.

For every day, 6 s. 8 d.

Charge of the Leet.

Judgment:

*False
weights
and mea-
sures.*

quire if any keep and use any false weights and measures of bushels, gallons, ells, yards, or false weights, ballances, or pounds; or if any use double weights, the greater to buy with, the lesser to sell with, to deceive the Nation.

And if any sell any Corn, Wine or Ale but by a sealed measure.

To suffer imprisonment until he hath made fine to the King for his offence.

For the first offence 6 s. 8. d.

The second offence 1 s. 4 d.

The third offence 20 s. to be set on the Pillory, and the measures not sealed to be broken.

Tanners.

43. You shall also enquire if any Tanner doth use the mystery of a *Shoo-maker, Currier* or *Butcher*.

Or if he *forestal* any Hides coming to the Market, or buy any Hides in open Market, unless it be of a Beast killed for ones own private provision.

Or if he have offered to sell any *Leather* before it be well dried, sorted, and marked, or hath tann'd any sheeps skins, or if he put his leather into any warm *woozes*.

The pain is to lose all the Hides or Skins so wrought, or the value thereof.

For every Hide so wrought he forfeits 6 s. 8 d.

For every offence 10 l. and to stand on the Pillory three several Market days.

Curriers.

44. You shall inquire if any *Currier* doth exercise the mystery of a *Tanner* or *Shoo-maker*, during the time he shall exercise the trade of a *Currier*, or if he shall curry any hide or skin

To forfeit for every hide or skin 6 s. 8 d. and the value of every hide or skin spoiled by his workmanship.

(ex.

Charge of the Leet.

Judgment.

(except it be perfectly tanned) being not thorowly dry, or shall burn or scald any hide or leather in the currying.

45. You shall further enquire if any Shoo-maker do cause any boots, shooes, slippers, &c. to be made of any Leather, but such as is well and truly tanned, curried, and substantially sowed.

The penalty for every pair of Shoo-makers shoes, boots, &c. made or sold otherwise, 3 s. 4 d. and the full value of the same.

46. You shall enquire if any searcher and sealer of Leather do refuse with convenient speed to seal any lawful leather.

The penalty for every such offence is 40 s. Searchers and sealers of leather.

Or if he receive any bribe, or exact any fee for the execution of his office (except what is limited by the Statute.)

For every such bribe or fee 20 s.

47. You shall enquire if any keep and maintain any Common-house, alley, or place of bowling, carding, dicing, or any other game prohibited by any Statute, or any other illegal game, hereafter to be found out or invented.

For every day 40 s.

unlawful games.

Every person that is found playing in the said places or houses, shall be by you enquired after.

Forfeit for every time 6 s. 8 d.

All Constables, Tything-men, Bailiffs, &c. ought to search once every month for unlawful games, as well with-

In default thereof they forfeit, for every months neglect 40 s.

Charge of the Leet.

Judgment.

In the Franchise as without.

Shooters
in hand-
guns, Cross-
bows, &c.

48. You shall enquire, of such as shoot either in Hand-Guns or Pistols, Cross-Bows or Stone-Bows; for all are prohibited to shoot in them, except such as can dispend 100 l. per annum) at any Hrn, Duck, Mallard, Pheasant, Partridge, Pigeon, Heathcock, Teal, or Widgeon.

Or, (1 Jac.) he that shoots at any of the said fowls, or at any Deer, or Hare, and cannot dispend ten pounds per annum in land, nor is worth two hundred pounds in personal estate.

Fry of fish.

49. You shall further enquire of such as destroy any fry of fish in the waters, streams or Rivers, within the precincts of this Leet with any manner of net, or any devise or Engine, (angling excepted.)

Pheasants &
Partridges

50. You shall also enquire if any have destroyed any Pheasants or Partridges, with any nets or other devises in the night time.

Hawkers
or hunting
with Span-
niels, &c.

51. Or if any do hawk or hunt with Spanniels, where corn grows, except it be his own ground.

52. You shall enquire if

upon pain of 10 l. for every time he shoots.

Forfeits for every shoot 20 s. to the use of the poor of the parish, if he neither will nor can pay so much, then three months imprisonment, if he can dispend 10 l. a year or above, then the pain is 40 s. and finding sufficient sureties that he shall not commit the like offence again.

The penalty is for every time 20 s. The fish taken, and the nets, &c.

For every Pheasant 20 s. and every Partridge 10 s. to be paid within 20 days after conviction, or one months imprisonment.

The penalty is 40 s. to the party vexed.

Charge of the Leet.

any do destroy or kill Hares by tracing in the Snow, with a dog or otherwise.

53. You shall likewise enquire if any do break any pond, pool, or other pits, wherein the Lord of the Leet hath any fish, to the intent to destroy and steal them away.

54. You shall enquire of Eves-droppers, such as stand under walls or windows, by night or day to hear news, & to carry it to others, to make strife and debate amongst their neighbours, these are evil members of the Commonwealth and here inquireable.

55. You are to enquire if any refuse to go to Muster, or absent himself without any lawful impediment.

You shall enquire if any have put to pasture any Stopped Horses, Gelding or Mare infected with the scab, or other infectious or contagious disease, into or upon any Common or common Fields.

57. You shall likewise enquire if Constables have been diligent in seeing the peace kept, and observed Watch & Ward, from the day of the Ascension until Michaelmas day, every night from the

Judgment.

The penalty to the Lord of the Tracing of Leet for every Hare is 6 s. 8 d. Hares.

He shall pay to the Lord treble damages. Suffer imprisonment of ponds for three months, and find sureties for his good behaviour for seven years.

Such offenders are punishable according to the discretion of the Jury. Eves-drop pers.

The penalty is 40 s. and 10. Masters. days imprisonment.

The penalty to the Lord of the Leet (for every such Horse so infected) is 10 s. Horses infected.

For such neglect the Constables are fineable according to the discretion of the Jury. watch and ward.

Charge of the Leet.

Judgment.

setting of the Sun, until its rising, 13 E. 1. c. 4. and if they have been remiss in any thing touching their oath it is, pre-sentable.

[Enquire the like of all the rest of the Officers, according to the places they are in, as the Tithingman, Surveyors, of the High-ways, Searchers and Sealers of Leather, &c.]

Mortmain.

58. You shall also enquire if any man hath given any Lands in Mortmain, viz. to any Corporation, or Fraternity, Religious-houses, or Religious-persons, without licence.

Such gift or devise is void, and the Lord shall have it.

Treasure trove.

59. You shall also inquire of treasure trove, viz. treasure found within the precincts of this Leet, either within or above the ground, the hidors not being known to any man.

It appertains to the Lord of the Leet.

Waifs
Estrays,
&c.

60. You shall likewise enquire of all Estrays and waifs; as if there be any Hories, Mares, or other cat-tel or Swans, that have come within the Jurisdiction, and remained there a year and a day, and not claimed, these are Estrays.

The Lord may have them by prescription.

And waifs are catrel stolen, and waded out of the possession of him that stole them as a thief, being pursued with Hugh and Cry to save himself doth delinquish them, they are called by the Civilians, bona derelicta.

The Waifs appertain to the King, unless the Lord have them by grant in his Charter.

But

But not to charge your patience with prolixities; if there shall be any other matter come to your knowledge, omitted in the charge, and fitting to be presented, you shall enquire and present it with the rest.

Then after the Charge is concluded, the Steward shall command the Cryer to make Proclamation, and after Proclamation made three times, the Steward shall say;

If any can Inform the Steward or this Inquest, of any Treason, petty Treason, Felony, petty Larceny, Purpresture, breaking of Ponds, or of Rescue, or of any other thing acted against the Peace, or of any misdemeanor of any Officer, or other person here, or of any waife or stray, Treasure found, Mortmain, or of any other thing here to be enquired of, come into Court and you shall be heard.

If any come in, and appear, let him be sworn thus :

The Evidence that you shall give to this Inquest, shall be the truth, the whole truth, and nothing but the truth : So help you God, &c.

Then let the Steward say to the Jury,

Go together, and enquire of the matters of your charge, and when you are agreed, I shall be ready to take your presentments.

Then adjourn the Court by Proclamation, until after dinner, in this manner :

All manner of persons that have any more to do at this Court, may for the present time depart, and appear here again at one of the clock in the afternoon.

After your return from dinner, call the Court by Proclamation, and after Oyes three times, say,

All manner of persons that were adjourned over until one of the Clock, or have any thing more to do at this Court, let them

them come into Court and give their attendance, as they will answer the contrary at their peril.

Then take the presentments of the Jury if they be there ready with them; otherwise, give them a day to bring them in, and adjourn the Court till then. At that day call the Court. And then call the Jury, every man by his name, and if they all appear; take their presentment, and ask them if they be all agreed; if they say *Yes*. Then ask them if they be content that their presentment shall be altered in form, if they grant it, then take them, read them, and amend the form, if need require; see that they be brought under their hands and seals for the Stewards warrant.

Then discharge the Court with Proclamation, command the Cryer to say, *Oyes*, three times, and say,

*Adjourn-
ment.*

All manner of persons that have appeared and have any thing more to do at this Court-Leet holden here this day; let them come forth and they shall be heard, otherwise they may depart, and are discharged of their attendance, and are to keep their day again upon a new Summons.

No: a.

In *Kelloways Rep. fol. 141.* There is a custom alledged, that two men within the provost might present the Articles of the Leet; but *Callis in his reading upon the Stat. of Sewers*, doubreth of such presentment, though it hath a Custom to strengthen it.

I shall not need to trouble you with presidents of Presentments, (seeing that they are so copiously performed by *Master Kitchin in his Jurisdiction of Courts*, and *Wilkinson in his Office of Sheriffs*) only with three or four for methods sake.

A Presentment of Petty-Treason.

I *mprimis Jurat. prad. super sacrum suum dicunt & presentant,*
Quod A. B. &c. apud Skipton infra jurisdic. hujus Cur.
dict. dom. Regis, &c. fecit & commisit viginti. argent. pec. monet.
voca t.

vocat. shillings, & quadragint. argent. per. monet. vocat half-crowns, false & felonice (liter. patent' dicti Dom. Regis non prius obtent.) contra pacem dicti Dom. Regis Coron. & dignitatem suam, ac contra form. Stat. in hujusmod. casib. edit. & provis.

*A Presentment of Felony for Burning
a House.*

Item presentant quod quidam A.B. &c. Gen. (tali die &c. apud C. infra Jurisdiction. istius curie, vi & armis, &c. voluntarie & felonice (ex malic. sua premeditat.) cremavit & cum igne destruxit mansionem ejusd. E.F. contra pacem, &c. Et contra form. Stat. inde edit. & provis. Ideo precept. est balliv. seiscire omnia terras & tenement. bona & catalla sua, ut respondeat pro eis domino istius Man. r.

A Presentment of a Felon.

Item presentant quod A.B. de, &c. Yeoman (tali die &c.) apud S. infra Jurisdiction. hujus Cur. vi & armis, &c. contra pacem Domini Regis nunc, &c. Clausum ipsius C.D. apud S. pred. fregit & intravit & un. seric. tunic. (vocat' Tabby) coloris cinerei de bonis & catallis ipsius C.D. adtunc & ibid. invent. felonice cepit & asportavit. Ideo precept. est Balliv. &c.

A Presentment of an Accessary.

Item presentant quod A.B. de S. predict. Gen. tali die, &c. apud S. pred. infra Jurisdiction. hujus Cur. consultavit, provocavit

vocavit, procuravit incitavit & abbettavit quendam C.D. &c. unam Vaccam nigri coloris, &c. de Catall. cujusd. &c. prec. &c. adt. & ibid. invent. felonice furare capere & abducere, virtute quorum concilij provocationis, procurationis, incitationis & abbettationis, pred. &c. eand. nigram vaccam (tali die, & Anno, &c.) felonice furavit, cepit, & abduxit, &c.

The Oath of the Steward.

YOU shall swear that you well and truly shall serve the Lord of this Mannor of S. in the office of Steward, and truly to see all plaints, actions, process and matters in the Courts to be holden before the Lord of this Mannor, and by you or your sufficient Deputy, according to the custom and Liberties of the said Mannor, to be entred and recorded as they ought to be, after the best of your cunning, skill, and power, taking for the same your due fees, and the perquisites, issues, profits, and amerciaments of the same Courts; you shall justly and truly write, and yearly extract, for the levying and gathering thereof; and you shall truly and diligently do and accomplish all other things appertaining to your said office after the best of your knowledge, as near as Gods grace shall direct you, *So help you God, &c.*

The Oath of the Bailiff.

YOU shall swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet in the office of *Bailiff* for this year ensuing, and shall well and truly collect all rents, revenues and other annual profits, as shall be chargeable, and issuing out to you. And of that you shall make and give a lawful account at the end of the same year,

year, and in every other thing appertaining to your Office, well and truly to discharge in your year ensuing. *So help you God, &c.*

The Oath of the Constable.

YOU shall swear, that you well and truly shall serve our Sovereign Lord the King, in the Office of *Constableness*, and as *Constable* of this Town of S. for and during the space of one whole year now next ensuing; you shall endeavour your self to the utmost of your power, to see the *Publick Peace* kept, and *watch and ward* observed and kept in this Town, as hath been accustomed, and as it ought to be: likewise you shall endeavour your self to learn and understand the contents of the Statute of *Winchestrey*, and divers other Laws and Statutes of this Nation made for the punishment of *Rogues, Vagabonds, and sturdy Beggars*, haunting and resorting within the precinct of your Office, and present the offenders accordingly. Also you shall present all such persons, as do or shall play, at any unlawful Games, according to the Statute in that case made and provided. You shall also have regard for the maintenance of *Artillery* within your said Office, and that you shall do and accomplish to the utmost of your power; *So help you God, &c.*

The *Tithing-man* or *petty Constables* Oath is after the same manner *mutatis mutandis*; only the *Tithing-man* is sworn to attend on the *Constable* (if he be required) when he shall execute his Office.

Of the Affeerer, and his Oath.

BUt, first let us Inquire what he is, and from whence his name is derived. *Minsh.* saith, that *Affeerer* cometh of

Court Leet:

of the old French word *Affeur'er*, which is, to *tax* or *fine*, and in Latine they are called *Affidati*, as it were men put in trust and appointed to his Office, which do affirm upon their Oaths, what penalty they think in their conscience, the offenders have deserved: so that they may mulct such as have committed any fault, which is arbitrably punishable, and for which no express penalty is prescribed by Statute. The Oath is as followeth:

You and either of you shall swear, that you will truly and indifferently tax, assess and affect, all such *Amerciements* as are presented at this Court; wherein you shall spare no man for love, favour, affection or corruption, nor raise nor inance upon any man (of malice) more grievous amerciements, than shall be thought reasonable, according to the quality of their offence, and faults committed, and not otherwise. So help you God,

The Oath of the Ale-taster.

YOU shall well and truly swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet, in the Office of *Ale-taster*, or *Assizer* of this Liberty or Hundred for this year to come; you shall duly and truly see from time to time, that the bread to be sold be duly weighed, and that the same do continue such weight, according to the prices of Wheat, as by the Statute in that behalf is provided; likewise you shall have diligent care, during the time of your being in Office, to all the *Brewers* and *Tiplers* within your Office, that they and every of them, do make good and wholesome *Ale* and *Beer* for mans body, and that the same be not sold before it be assayed by you, and then to be sold agreeable to the prices limited and appointed by the *Justice of Peace*: and all faults committed or done by the *Bakers*, *Brewers* or *Tiplers*, or by any of them, you shall make known, and present the same at this Court, whereby due and condign punishment may be inflicted upon them for their offences accordingly, and in every other thing

thing, you shall well and truly behave your self in the said office, for this year to come, *So help you God, &c.*

*Of the Hayward, Beadle, or Greve, and
his Oath.*

Hayward, hath its derivation from the French word *Haye*, i. e. *sepes*, a hedge, and *Garde*, i. e. *custodia* a keeper of the hedges. With us it signifies one that keepeth the common Herd of the Town: and yet one part of his office is to look that they break not the hedges of inclosed grounds. He is called by the Latines *Bedellus* i. e. *oppidi vel civitatis servus*.

You shall swear, that you shall well and truly serve our Sovereign Lord the King, &c. and the Lord of this Leet, in the office of *Hayward, Beadle, or Greve*, for this ensuing year, and you shall duly and truly execute all Amerciaments, and other process to you directed from the Lord or Steward of this Court, and you shall present all pound-breaches which shall be made within you office; and also all Charels, Straies and Wals, and in every other thing, well and truly hold you in the same office, *So help you God, &c.*

It is usual with the Lords to grant their Office of Bailiwick, (taking good securities) in this manner.

A grant of a Bailiwick.

TO all, to whom this present writing shall come: *A.B.* of *C.* in the County of *Y.* sende h greeting. Know ye, that I the said *A.B.* on the fidelity, circumspection and due diligence of my beloved servant *E.F.* to me and my posterity hereafter to be done and performed, very much relying
and

Court-Leet.

and confiding ; Have made, ordained, and by this my present writing constituted the said *E.F.* of the Town, Mannor, or Lord-ship of *S.* in the said County of *T.* Collector and Receiver of all and singular my Rents, Revenues, Fines, Amerciements, and Estréats of Court-Leets, or views of *Frank-pledge* there : And of all other profits by reason of the said Court-Leet, or view of *Frank-pledge*, any way arising, emergent or coming : to have, hold, exercise and occupy the said office to the said *E.F.* by himself so long as he shall well behave himself towards me, and shall a true and just account of his Receipts make unto me, and the same shall well and truly pay and satisfie. Taking of me for his yearly wages *5l.* at the Feasts, &c, by equal portions, by mine own hands after his account and full payment at every half year, and the gifts, rewards, and emoluments to the same office due and accustomed. In testimony whereof, &c.

Curia

CURIA DOMINICALIS:

Vel,

BARONA:

O R,

Court Baron.

*Of the first Original, and Institution of Mannors,
and of this Court.*

IF we labour to investigate the Antiquity of Court-Baron, we shall find them as Antient as Mannors themselves; therefore we will inquire what a Mannor is, together with the first institution of Mannors.

The word Mannor, *Manerium est nomen collectivum & generale* what a vale, it comprehends Houses, Lands, Gardens, Trees, &c. Mannor is. and hath its Etymology (as some derive it) a Manendo, and then it taketh its name either from the Mannor-House which the Lord maketh his dwelling place, or else a manendo, quia Dominus ac tenentes in Manerii sui circuitu L. Dyer. cohabitant ac manent: others compute its denomination from the Latin, Manerium, quass. Manurium, because it is laboured with handy work by the Lord himself, or which

the Tenants are obliged to manure : or else, from the Lands remaining in the Tenants hands, which are likewise tilled and manured : others would have its appellation from the French word *Manoir*, i. e. *Mansions*, because the Lord remaineth there, and hath his house which is called the principal house of the *Mannor*, or from the French word *Mesner*, which signifies to govern or guide, because the Lord of a Mannor hath the guiding and directing of all his Tenants, within the limits of his Jurisdiction, & this is holden (by some) to be the most probable *Etymology*, and most consentaneous to the nature of a Mannor : for a Mannor (*hisce diebus*) signifieth the Jurisdiction and Royalty incorporate, rather than the Land or Scire.

When the pristine Kings of this Kingdom (who had all the lands of England in *Demefn*) did confer great quantities of land upon some great Personages with liberty to parcel the land out to other inferiour Tenants, reserving such duties and services as they thought convenient : Such lands were called *Mannors* ; a Mannor consisting of two parts, *viz*.

1. *Demefne*, }
2. *Services*, }

And neither of them can make a Mannor without the other : for a Messuage or Lands cannot be called *Demefnes* without Tenants belonging to them, to pay Rent and do services ; so on the other part, though a man have Tenants to pay him Rents, and do him service, and no Messuage or lands whereupon to keep his Court, and to receive his Rents and services, this cannot be called a Mannor, but only a *Seigniorie in gross*, F.N.B. 3. & 8. Likewise a Mannor must be by prescription, and the services by continuance time out of mind, and therefore a Mannor cannot be created at this day by the Kings Patent, it being an hereditament consisting of many real things and incorporated together, before time of memory ; then a *multo fortiori*, a subject cannot create one ; yet may he in some sort enlarge a Mannor by adding some services unto it, 9 Aff. pl 24. & Br. tit. tenure 26.

F.N.B. 3.
& 8.

Leonards
Reports
first part.
33. Marsh
against
Smith.

A Customary Mannor, what it is, and what may be a good Mannor to maintain Copy-holders.

Now though a Mannor by his proper nature ought to consist of

*Demefns
and
Services.* }

Yet in some cases, that may be a Mannor, and maintain Copy-holders and a Court-Baron, by usage and Custom, which otherwise by Common-Law is no Mannor, nor can be so called, &c. As if diverse do hold lands by Copy of the Mannor of Dale, and so have done time out of mind, and the like time there hath been no Free-holders to the said Mannor, although this be no Mannor in his proper nature, yet by usage and custom it is a good Mannor to maintain Copy-holders, *Calthrops Readings* 12.

And in Co. 11. 17. & 18. Sir Henry Nevils case, it is clearly resolved by the whole Court, that there may be a Customary Mannor, and held by Copy, and that such a Customary Lord may hold Courts, and grant Copies, and that such a Customary Mannor may pass by Surrender and Admittance, and that fines shall be paid upon admittance, as well upon alienation, as upon descent, and there may be also a Customary Lord, Mesne, and a Customary Tenant, as in case where the Mesnalty is a Tenancy at will, at the Common-Law of a Mannor, and also if such a Customary Mannor be forfeited, the Lord shall have the customs and services as appertain- ing unto the same, and it is there said, that the Mannor of *Aylesham* in the County of Norff. is held by Copy.

*Customary
Mannor,
what.
Co. 11. 17.
& 18. Sir
Henry Ne-
vils case.*

Z z

By

By what names a Mannor may pass.

17 E. 3.
fo. 8. Bol-
strod. 1.
part. 5. 54.
Mie. 8 Jac.

A Mannor may pass by several names; as, it may be known by the name of Priory or Chantry, as appeareth by the book of 17 E. 3. fo. 8. where a feoffment was made of a Mannor by the name of Knights fee, and this is there held to be good, this having usually carryed the name of Knights fee, and the same may well pass by this name, either by Fine or by Feoffment; and in another place a Mannor was *cognitum & vocatum* by the name of seven yard-land, as well as by the name of Mannor, and passed.

How Court-Barons were first Instituted.

Lamb. fo.
128. & 146
Camden.
Bri. 12. 16.
Britton f.
274. Mir.
c. 1. Sect. 3.

AT the creation of Mannors, the King delegated Courts to the Lords, where they might redress misdemeanors within their precincts, and to punish offences committed by their Tenants, and to decide and debate controversies arising within their Jurisdiction, and these Courts were termed Courts-Baron, as it appears among the Laws of Edward the Confessor, where it is said, *Barones vero qui suam habent curiam de suis hominibus, &c.* taking its name of the Baron who was Lord of the Mannor, (or according to *Co. com. Lit. fo. 58. a.* for that properly in the eye of the Law it hath relation to the Freeholders, who are Judges of the Court) because in ancient time such persons were called Barons, and came to the Parliament, and sat in the *upper Houses*, but when time had wrought such an alteration, that Mannors fell into the hands of inferior men, & such as were far unworthy of so sublime a calling: then it grew to a Custom, that none but such as the King would, should come to the *Parliament*; such as the King, for their extraordinary wisdom or quality thought good to call by Writ, which Writ ran *hac vice tantum*; yet though Lords of Mannors lost their names of Barons, and were deprived of that dignity, which was inherent to their names, yet their Courts retain still

still the name of *Court-Barons*, because they were originally erected for such personages as were Barons, neither hath time been so injurious as to irradicate the whole memory of their pristine dignity: in their denomination, there are yet stamps of their nobility, for they are still entitled by the name of Lords.

Court-Baron cannot be separated from a Mannor.

THis *Court-Baron* is the chief Prop and Pillar of a *Mannor*, which no sooner faileth, but the *Mannor* is destroyed, and therefore it cannot be separated from the *Mannor* 34 H. 6. 49. for it is a wealth to a *Mannor* (the like of a *Court of Pipeowder* to a *Fair*, of which more in its proper place) and by granting the principal which is the *Mannor*, the *Court* which is incident to it, passeth without being named, 12 *Elix.* 12 'Elix. *Dyer* 288. if a *Mannor* be granted *cum pertinentiis* the *Court* passeth, for it is an incident inseparable to the *Mannor*, & one cannot grant his *Court*, but he may grant the profits of it, *Brownlows Rep.* Yet though a *Court-Baron* is incident to a *Mannor*, it must be understood of a *Mannor in facto*, in reality and truth, but not to be a *Mannor* only in intendment, & a meer nominal *Mannor*, *Bolstrod*, 1 part. fo. 54. *Mich. 8. Jac.* *Bolstrod.* *Rep.* 175. 1 part. fo. 54.

And as a *Mannor* at this day cannot be derived out of the CROWN, therefore *ex consequente*, neither the *Court-Baron* which is incident to such a *Mannor*, but a *Court-Leet* is not incident to a *Mannor*, but he which hath a *Mannor* may also have a *Court-Leet* to be by him held within his *Mannor*, but this ought to be by a special grant from the King, and not otherwise, and then he may punish offenders, the which he cannot do in his *Court-Baron*, he cannot be ousted of his *Court Baron* unless he be ousted of his *Mannor*; for if he have a *Mannor*, he ought to have such a *Court-Baron*, for this, (as I have said) is as an incident, and follows the *Mannor*, as a necessary consequent and adjunct unto the *Mannor*, and therefore if he have the one (*viz.*) the *Mannor*, he shall also have the other, (*viz.*) the *Court-Baron*.

What parts a Court-Baron doth consist of.

THis *Court-Baron* appertaining to a Mannor consisteth of four special parts, *viz.*

1. The Lord.
2. The Steward.
3. The Tenant.
4. The Balliff.

It is defined to be an Assembly of these parts together within the same Mannor ; and it is likewise duplicate, *viz.*

1. The first is for the taking care, counsel, and inquiry of causes concerning the same Mannor: as for the tryals or titles of the land, and taking and passing of Estates, Surrenders, admittances, and grants, and to see Justice duly executed, and the Acts and Ordinances there done to be recorded in the Rolls of the same Court, which Rolls are the evidences of all Ordinances, duties and customs, and conveyances between the Lord and the Tenants of the same Mannor, and are to be entered by the Steward, or an Officer indifferent between the Lord and his Tenants, and the same Rolls to remain with the Lord, thereby to know his Tenants, his Rents, his Fines, his Customs, and his service. And the particular grant of every Copy-hold, to be copyed out of the Rolls, and the copies thereof to be delivered to every particular Tenant, neither can they make any other title to their said Tenements, but by their said Copy : and this is called the *Copy-holders Court*, and herein the Steward is judge.

2. The other is for the tryal of actions under the sum of forty shilling, of the nature of the *County-Court*, of which we have copiously treated in the first part of this work and therefore here not necessary. And herein the Free-holders are Judges. But to return to the *Copy-holders Court*.

And herein, the Lord, the Steward, the Free-holders, the Copy-holders, and the Bailiffs of every Mannor, have an intermixt and joynt office, and authority, in some cases, and to some

Court-Baron.

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some purposes : and to other purposes their office is distinct, and every of them doth occupy several places, persons, and parts.

Five things are necessarily appertaining to a Mannor.

T Here are five things necessarily appurtenant to a Mannor and Court-Baron, *viz.*

1. The *Lord* is chief to command and appoint.
2. The *Steward* to direct and record.
3. The *Free-holders* to assere and judge.
4. The *Copy-holders* to inform and present.
5. The *Bailiff* to attend, and execute, &c.

And all these united make a perfect execution of Justice, and judgment in Court-Barons, and without all these a Court-Baron cannot be held in its proper nature, in respect of all causes appertaining to the perfect jurisdiction of a Court-Baron. But to make a more particular demonstration of their distinct authorities and offices.

1. And first of the *Lord*, as he is chief in place, so in authority, and he officiateth in three several places, *viz.* the one of a Chancellor, in cases of equity; the other of a Justice in matter of right; and the third of himself, in cases proper and particular to himself. *Of the Lord.*

2. The *Steward* doth act the part of several persons, *viz.* Judge and Orderer in cases of *Copy-hold*; and also a Minister and Register to record and enter things into the Court-rolls, and in both these to be indifferent between the Lord and his Tenants. *Of the Steward.*

3. The *Free-holders* do likewise execute two parts, that is to assere, and judge ameracements, and also to return and certify judgments. *The Free-holders.*

4. The *Copy-holders* hold two distinct places, *viz.* to inform offences committed against the Lord within the Mannor, and to present such things, as shall be given in charge by the Steward. *The Copy-holders.*

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5. The

The Bailiff. 5. The Bailiff officiates two parts, *viz.* to execute the process, and mandates of the Court, and also to return into the Court the execution of the same process, *Et quod sit ita justus, quod ob vindictam vel cupiditatem non querat versus tenentes domini, vel aliquos sibi subditos, occasiois injustas, per quas destrui debeant seu graviter amercari.*

Fleta li. 2. cap. 73.

The difference betwixt Court-Leet and Court-Baron.

HAVING travelled thus far in this beaten way, we will now inquire the difference between Court-Leet and Court-Baron; and here these Courts differ from Court-Leets in divers respects: the first is this that Court-Barons by the Law may be kept once every three weeks, or (as some think) as often as it shall please the Lord of the Mannor, though for the better ease both of Lords and tenants, they are kept but very seldom; but a Court-Leet by the Statute of *Magna Charta*, *cap. 35. 31 E. 3. cap. 15.* it is to be kept but twice every year, one time within a month after *Easter*, and another time within a month after *Michaelmas*.

2. Secondly, in this, that Court-Barons may be kept in any place within the Mannor, but a Court-Leet by the said Stat. of *Magna Charta*, is to be kept *in certo loco ac determinato* within the precinct.

3. Thirdly, in this, that originally, Court-Barons belonged unto inferior Lords of Mannors, but Court-Leets belonged unto the King only.

4. Fourthly, in this, that Court-Barons are inseparably incident to every Mannor, so that every Lord of a Mannor may keep a Court-Baron, but few have Leets; for inferior Lords of Mannors cannot keep Court-Leets without special prescription, or some special patent from the King.

5. Fifthly,

5. Fifthly, in this, that in Court-Barons the Suitors are Judges; but in Court-Leets the Steward is Judge.

6. Sixthly, in this, that in Court-Barons the Jury consisteth oft-times of less than twelve, in Court-Leets never, because none are impannelled upon the Jury but Free-holders in Court-Barons of the same Mannor; but in Court-Leets strangers are oftentimes impannelled.

7. Seventhly, In this, that Court-Barons cannot subsist without two Suitors *ad minimum*, but Court-Leets can well subsist without any Suitors.

8. Eighthly, in this, that Court-Barons inquire of no offences committed against the King, but Court-Leets enquire of all offences under High-Treason committed against the State and dignity of the King.

9. In many other respects they differ, as that a *Writ of Error* lieth upon the Judgment given in a Court-Leet, but not in a Court-Baron.

10. So in a Court-Leet a *Capias* lyeth, but in a Court-Baron, instead of a *Capias*, is used an *Attachment* by goods.

11. So in a Court-Baron an Action of Debt lyeth for the Lord himself, because the Suitors are Judges, but in a Court-Leet the Lord cannot maintain any action for himself, because the Steward is Judge.

*Of the time when, and place where this
Court is to be kept.*

THe usual and accustomed time is to keep it once every three weeks, and although no Court hath time out of mind been holden within the Mannor, yet it is not thereby

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Co. l. 4. 26. extinct and lost, for it is incident to a Mannor of Common
 & 6. 27. right, Cro. l. 4. 26. and 6. 27. d. And as to the place where it
 Owens rep. is to be kept, it may be kept and holden in any place within
 f. 35. Mic. the Mannor, as the County-Court, in any place within the
 13 & 14 County, and Hundred-Court in any place within the Hun-
 Eliz. Leo- dred: for as to every Mannor a Court is requisite and inci-
 nards rep. dent to it: so it is transitory throughout the whole Mannor,
 133. Marsh and every part of the Demesnes of the Mannor is capable of
 against a Court to be holden there. But if it be holden out of the
 Smith. Mannor it is void, unless a Lord being seized of two or three
 Co. 4. f. 24. Mannors, and hath usually, time out of mind, holden at one
 Murrel & of his Mannors, Courts for all his said Mannors, there by
 Smith, & custom such Courts are sufficient in Law, though they be not
 f. 27. Clif- holden within the several Mannors.
 tons case.

The manner and method of keeping the Court.

B. II. *Cur. Baron. A.B. Ar. domini Manerij predict. ibidem tent.*
 The Stile of *primo die Novemb. Anno, &c. coram C.D. Senescallo Cur.*
 the Court. *Manerij pred.*

Proclamation. After you have entred the Stile of the Court, command
 the Bailiff to make Proclamation, Oyes, &c. and say,

All manner of persons that have been summoned to appear
 here this day, or have any thing to do at this Court, draw
 near and give your attendance.

Or, if any will be *Essoin'd*, or enter any plaints, let them
 come forth, and they shall be heard. Which *Essoin* is thus
 entred, *viz.*

Essoin. A.B. *esson. est prosecta Cur. per C.D.*

And Plaints are entred in this manner:

Plaint. A.B. *queritur de C.D. de plac. deb. transg. Ad dampnum*
xxx s.

And the proceeds upon plaints are the very same as in the
 County-Court. -

Call

Court Baron.

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Call the Free-holders, and those that make default, let them be amerced in this manner, viz.

A.B. Arm. & C.D. Cusumar. tenen. hujus Mann. fecerunt Amerciā. defalt. Ideo uterque eorum amerciatur, prout patet super eorum ment. capita.

Then enter over their heads thus : *Amerced two pence.*
Then command the Bayliff to call the Jurors.

Jurors.

I. D.	} Jur.	C. D.	} Jur.	A.B.	} Jur.
R. R.		H. I.		C. D.	
S. T.		K. L.		E. F.	
V. W.		M. N.		R. P.	

Then call the Foreman to the Book, and swear him after this manner: *The Foreman's Oath.*

You shall swear that you as Foreman of this Homage, with the rest of your Fellows shall duly enquire, and true presentment make of all such articles and things as shall be given you in charge, and therein you shall spare no man, for love, favour, or affection, nor present any man for malice, hatred, or envy, but according as things here presentable, shall or may come to your knowledge, by information or otherwise : So shall you make there true presentment without concealment, So help you God, &c.

The Foreman being sworn, call the rest by their names, and swear them by four at a time, in this manner : *The Oath of the rest.*

The same Oath that I.D. your Foreman hath taken before you on his part, you and every one of you shall observe and keep on your parts, So help you God, &c.

After the Inquest thus impannelled and sworn, make another Oyes, and say ; *Proclamation.*

You good men that are impannelled, draw near, and you, and all other keep silence during the Charge.

An

An Exhortation to the Jury.

My Masters,

YOU that be sworn, before I give you your Charge, I think it necessary to declare, by what Authority you are commanded hither, and for what cause. Chiefly you are appointed to be and appear here, being that you are the Lords Tenants, and are obliged by reason thereof to appear at the Lords Court-Baron when it shall be holden, according to the Law and Custom of this Mannor, that is to say, at every three weeks end, being warned, and being (by the same authority) there to end and determine Injuries, trespasses, debts, and other actions where the debt or damage is under forty shillings. And also that nothing be acted within the Mannor, which shall be a detriment to the inheritance of the Lord of this Mannor, which ought to be enquired and presented for the Lord: And that you be the more diligent and careful in enquiring and presenting the same; I have ministered a corporal Oath unto you, which is an Invocation, or taking to witness the Name of God, to confirm the truth of that you shall say and present, minding neither fraud nor deceit, but only the truth, not partial, but seeking the glory of the Almighty, the Commodity or your neighbours, and the whole Common-wealth. Thus much of Exhortation in brief. And now to your Charge.

The Preamble of a Charge.

My Masters,

YOU know how and with what obligation you have obliged your selves, to perform this service you are about to take in hand: It is the calling of Almighty God to witness, that

that, that you shall do shall be Truth and shall be by you performed, without any partiality or respect of persons.

And this Oath you ought to perform for four respects.

First, For the good of the Soul; for if you observe not your Oaths justly, you commit willful Perjury, whereby you condemn your own Souls, and procure Gods wrathful indignation and plague to be conferred upon you, and your posterity in this world, and in the world to come: and on the other side, to make conscience of your Oaths, is a thing acceptable to God, for, *jurare per Deum actus Religionis est, quo Deus testis adhibetur, tanquam is quis sit omnium rerum maximus*, to swear by God, is an Action of Religion, wherein God is called as a Witness, who of all things is the greatest.

Secondly, You must observe your Oaths for the good of your Body, (that is) for your own profit and commodity, and for the safety of your selves and families, for thereby wrong shall be redressed, and peace and tranquillity maintained, whereby the Kingdom must needs flourish, and whereof your selves being members, must be great partakers.

Thirdly, For shame and corporal punishment, and that is for the avoiding of the great Infamy that perjury will bring you unto, and the eschewing such punishment and danger, as by the Laws do belong unto perjured persons.

Fourthly, You ought to be careful of your Oaths, for your duties sake towards your Prince, for the observation of his Laws and Statutes, and for the execution of Justice to be administered to every man according to equity.

Therefore to conclude, that your duties towards God or your Prince may move you, that love of the Kingdom may provoke you, that consideration of your selves may incite you, or at least, the danger of punishment of the Laws may terrifie you; lay aside malice, put apart affection, exclude fear, and embrace uprightness, honest and true dealing; justly, uprightly and truly present ye the Truth to every article of your charge, so near as God shall give you grace, and so here now, this is your Charge,

Quod tacite intelligitur, de esse non videtur.

Another

*Another Exhortation to a Jury.**My Masters,*

TO put you in mind of your own good, that is, of your peace and safety, might seem to be in me superfluous: considering that in nature, *Omnia appetunt bonum*, all things, yea the very Brutes themselves do appetite their own good.

The only occasion of our Assembly at this present, is for your good, and to set good order, rest and quietness amongst you, first between Lord and Lord adjoining together, that one of them should not wrong another: Secondly, betwixt the Lord and his Tenant: and, Thirdly, betwixt and amongst one of them with another.

The continual Jarrs and Discontentments which do dayly arise amongst men of reason, and the undue performance of those functions wherein we are placed, will one day administer occasion unto the Creatures to be produced in Judgment against us, if we do not more conscionably look unto our ways.

Look upon the four Elements, the *Fire*, the *Air*, the *Earth*, and *Water*, which seem to be at odds with each other, one striving to vanquish and conquer another, as the cold and windy Air, to dry up the moist Earth, and the Water to quench the Fire, and the Fire to consume the Water, and yet God the Author of all Peace, and the Rewarder of peaceable Men, hath so tempered them, that they sympathize each with other; for the Earth is refreshed by the Waters, and the Fire is cooled and qualified by the cool Air, and thus they are linked together in love and order, like the golden chain of which the Poet speaketh.

Let these examples teach us, neither let men be out of order: when the Creatures teach us an example of a peaceable Life and civil Government.

I cannot but lament, to see how remiss I find men in this service, and how unrespectful of their Oaths, and duties to Almighty God, admonishing them in the best sort,
pro-

producing unto them the best sentences of Scripture I can collect ; my words have been but as Water spilt upon the ground ; for many have come with a resolution to do that they would do ; not, that they should do.

I do no speak this against any man here in particular, neither do I think it needful to shew you what an Oath is, no doubt, you understand your selves sufficiently.

Therefore I will conclude with this saying, *Memento unde venisti, quo redies, & quid agendum est in futuro*, Remember what you are, whether you must, and what you are to do hereafter : that is, that you are but dust, must to the dust, and one day render an Account for every idle word, much more for every vain, false and untrue Oath ; and thus briefly referring these things to your consideration, hear now what shall be your Charge.

Preambles of Charges.

AMongst all the Observations whereby you stand engaged for the performance of this service, there is none more strong, none more sacred, than your Oath ; for Duty of obedience towards the King and his Laws, is too weak a string to bind a refractory person, unless some extraordinary penalty keep him in fear ; and Charity for preservation of the Weal-publick is cold, and zeal for punishment of Offenders is many times either dull or preposterous : only an Oath, because it is a religious Act, lyeth heaviest upon mens Consciences, and those who did lightly esteem them, were termed the Sons of *Belial*, as you may see in the History of *Naboth*, a word signifying *absq; jugo*, meaning such men, *qui jugum laboris, pietatis, ac legis Dei excusserunt, ac proinde nihil boni agunt*. A word or two therefore of an Oath in general, and of the Oath you have received in particular.

An Oath is shortly defined thus : *Juramentum est assertio religiosa de re possibili & licita cum veri Dei invocatione*

catione facta qua petimus ut sic testis dictorum & fallentis puniatur.

In it are three Acts to be observed, *oathis* a proposition, whereby we protest a thing done or not done. 2. *ἐκκαρτεία*, an Invocation of Gods Name, that we do it *bona fide*, and we will not falsifie. 3. *κατάρα*, an execration or curse of our selves, imprecating the divine vengeance, if we do otherwise.

Now an Oath is of two kinds, Assertory and Promissory; Assertory, for Assurance, that a thing past or present is true; Promissory is, whereby we bind our selves to do or leave undone any thing. In an Assertory Oath, there is but one Truth agreeing with the thing affirmed or denied; but in a promissory Oath, there are two Truths required, one present, that we have a mind to obey; and the other future, that we perform that we promise, and both ought to have *judicium, veritas & justitia: judicium, ne incautum, veritas, ne mendax, & justitia, ne iniquum proferatur juramentum.*

And thus much for every Oath in general, now for the Oath you have received in particular: In which are observable three things, the Action, the Subject, and the manner of the Action: The Action is duplicate, (*viz.*) Inquiry and Presentment: The first hath annexed unto it this quality, Diligence; *You shall diligently inquire:* for matter, *diligentia, noverca negligentia*, saith *Boetius*, in every discipline, as diligence is the mother, negligence is the stepdame, *Et si curare parva negligimus, majora perpetrabimus*, saith *Gregory*; and the second Action desireth Truth, *You shall true presentment make*, for *Veritas sola lavat sola liberat*, saith *St. Bernard*.

Now the Subject whereof you are to enquire, are the Articles of your Charge.

The manner of the Action is set down in your Oath; first generally in these words, *The King, Counsel, &c.* and particularly in these words following; *You are to keep Counsel, first for the more speedy dispatch of the Kings Service:* for if any other be privy to your Presentments, it will be a means to prevent your proceedings. Secondly, *For your own quietness;* for if you present any man, and he come

to have any notice of it, he will exclaim against you.

Now the particular manner of your proceedings is set down first negatively, *You shall present, &c.* for this is a breach of Charity; Nor you shall spare, &c. for this is a breach of Justice: then positively, *You shall present the Truth*, and that by way of direction to, *the whole truth*, without subtraction, for that is Hypocrisy. Secondly, *Nothing but the truth*, without addition, for that is no better than down-right lying.

Thus you see what is required of you, *vi- Diligence, Truth, keeping of Counsel, Charity and Justice.*

1. *Cum in omnibus rebus tum maxime in repub. administranda diligentia plurimum valet.* Tully.

2. *Veritas res omnium iustissima, salth Menander: que nunquam latet, & in omnem partem sui semper similis & una & eadem est, cujus una perpetua vis est, & una facies.* Seneca.

3. *Optimum & tutissimum administrandarum rerum vinculum taciturnitas,* Val. Max.

4. *Charitas Honorum omnium radix.* August.

Let the Light of Truth inform your understanding, the Fire of diligence reform your Wills, the veil of close council keep your proceedings secret, the band of Charity knit your affections together, and then shall the Lawrel of Justice crown all your actions.

*The Charge of the Free-hold and
Copy-hold-Courts.*

1. **Y**ou shall first inquire of all such as owe any suit unto this Court, and at this day have made defaults and present them, *viz.* All such as hold any lands to sue unto this Court, for of what age soever, or of what distance in dwelling such Tenant is, he must here appear, and do his suit and service, or else be amerced, and this is called *Suit-Service*, because the Land (as it were) is tyed by this Service.

2. If there be divers Coparceners who hold Lands of the Lord, to sue unto this Court, here the Lord shall but have one suit of Court, and that of the eldest Coparcener, and the other sisters shall be Contributors, and this is by the Stat. of Marlebridge, cap. 9.

3. The same Law by the same Statute is of Joint Purchasors.

4. But the Statute of *Quia emptores terrarum*, made in the 9. year of E. r. If the Tenant of this Mannor hold Lands of his Lord: for example xx Acres of Land by xx d. Rent and Suit of Court, and doth alien these Lands to xx several men and their Heirs severally; here the Lord shall have xx several suits of Court, where, by his first Grant he had but one.

5. If any Tenant be dead since the last Court, or before, and his death not as yet presented, you shall enquire what Lands and Tenements he held of the Lord of this Mannor, and by what Tenure: (to wit) Knights-service, Soccage Copy of Court-Roll, or what other Tenure, what other benefit or advantage is grown to the Lord by the death of this Tenant, (to wit) Ward, Marriage, Relief or escheat, or
what

what other thing; who is his next Heir, and of what age, and in whose custody; and present all these.

6. And if Tenant in Knight-service have made any Feoffment, Gift, or Alienation of his Lands by collusion, to the intent to defeat the Lord of his Ward, and be since dead, his Heir within age, he shall be in Ward notwithstanding, for such conveyance is void in Law.

7. And if any Tenant in Knight-service be deceased and be dead, his Heir within age, he shall be in Ward notwithstanding his Disseisin; and if such Tenant have issue a son under the age of 21 years at the time of his death, he shall be in Ward, till he attain his age of 21 years for his Lands, and if he be married, for his body likewise.

8. But if Tenant in Knights-service have issue a daughter, under age, and marry her to an husband of full age, and die before the daughter attain to her full age of 14 years, yet she shall not be in Ward, in regard she is married to an husband, which by intendment of Law, is able to perform Knights service unto his Lord.

9. But if Tenant in Knights-service have issue a daughter of full age, and marry her to an husband under age, she shall be in Ward, her marriage notwithstanding, in regard she is married to an husband, which by intendment of Law is not able to perform Knights service unto his Lord.

10. If Tenant in Knights-service have issue a daughter full 14 years of age at the time of his death, and either not married at all, or married to an husband of full age, she shall not be in Ward; but if she be under the age of 14 years, she shall be in Ward, till she come to the age of 21 years, both for body and for lands.

11. But in the case before remembered, where Tenant in Knights-service hath issue a daughter under age married to an husband of full age, that if both her husband, and her ancestor die before she attain her full age of 14 years, she shall be in Ward, her former contract notwithstanding.

Court Baron.

12. Likewise a man may at this day hold Lands of a common person in Knights-service, as to hold Lands by Escuage uncertain, which is sometimes assessed to more, and sometimes to less, or hold Lands by Cornage, or by Castlegard, this is Knight-service, and draws thereunto Ward, marriage and relief.

13. Tenant in Soccage is, where a man holdeth Lands of his Lord by Homage and Fealty; or by homage, fealty and suit of Court; or by homage, fealty, suit of Court, and a certain Rent, or by a certain Rent, if any of these reservations be in a Deed made before the 18 year, E. 1. and that it be for all services and demands, this is soccage. And if such Tenant die, his Heir within age, he shall be in ward, though after the nature of Knights-service, for this shall be under the protection of the *Prochein amie*, the next of kin to whom the Inheritance cannot descend. As for example, If the Lands do come to him upon the part of his Father, he shall be in protection of the next of kin upon the part of his Mother: If they do come to him upon the part of his Mother, he shall be under government of the next of kin, on the part of the Father, until such a time as this Pupil hath attained his full age of fourteen years, and then he may enter upon his Tutor, call him to an account, and only answering and allowing unto him his necessary expences about his person and tenure.

14. And there is due unto the Lord by the death of this Tenant, a Relief, and that is as much as one years Rent payable to the Lord by the death of this Tenant, and this is presently due after the Tenant hath attained to his age of 14 years, the Lord is not to pay any longer time for it.

15. There is likewise due unto the Lord by Tenant in Knights-service, Relief, in case where the Lord hath neither ward nor marriage, and that is, he that holdeth by a whole Knights-fee, must pay 100 s. half a Fee 50 s. and so according to this rate, he that holdeth more, must pay more; and he that holdeth less must pay less.

16. If there be any Rents, Customs or Services withdrawn

drawn from the *Lord* of this *Mannor*, you shall enquire of it, and present it; but first you shall enquire, what Rents, Customs and Services the same are, by whom they are withdrawn, how long they have been detained, and in what Bailiffs time, forth of what Lands and Tenements the same are issuing, to the end the *Lord* may distrain for the same, and for the Arrearages.

17. If there be any that do conceal any of the *Lords* Lands, (that is) do hold them without his licence, you shall enquire what Lands and Tenements the same are, what they contain, what they are worth by the year, how long they have been detained, and by whom, and present it.

18. If there be any Villain or Bondman of blood that have purchased any Lands or Tenements holden of the *Lord* of this *Mannor*, and present it: for the *Lord* may enter, and take such Villains Lands and Goods at his pleasure.

19. If any Tenant of this *Mannor* seised of Lands in *Fee-simple*, be the same *Free-hold* or *Customary*, is dead, seised of them without Heir general or special, the *Lord* ought to have these Lands by *Escheat*.

20. If any Tenant of this *Mannor* seised of any such Lands in *Fee-simple* be attaint of *Felony*, *Heretic*, *Murder*, by *Verdict*, *Outlawry* or *confession*, the King shall have his *annum, diem & vastum*, and the *Lord* shall after have these Lands by *Escheat*.

21. If any *Bastard* have purchased any Lands or Tenements holden of the *Lord* of this *Mannor*, and be dead seised of them without Heir of his body, the *Lord* ought to have these Lands by *Escheat*: and therefore if there be any such, you are to enquire of them, and present them.

22. There is a Rule in *Littleton* which may suffice for all these, that none can inherit as Heir, any manner of Lands in *Fee-simple*, but he that is Heir unto him of the whole blood.

Court-Baron.

23. If any Tenant of this *Mannor* do surcharge the Common by putting to it more cattle then by the rate of his tenure he ought, or if any having merely Common appendant, and not Common appurtenant, doth put to the Common, Cattle not commonable, as Hogs, Geese and Goats; or if any doth break the Lords soil, unless it be for gravel for repair of the high-ways, making up the breach again; or that doth use the Common in any other sort, but only with his Cattle for bit of mouth; or that doth erect any house or cottage, commit any trespass, or encroach any parcel of the waists, without the Lords licence, all these are inquirable and presentable.

24. And for the better understanding of these kinds of Common, you shall know that they are of four sorts, *viz.*

1. Common appendant.
2. Common appurtenant.
3. Common in gross.
4. Common per cause de vicinage.

1. Common appendant is, where a man hath Common of pasture time out of mind of man, and by Prescription, and of common Right belonging to his own Plow-land for such Cattle as do gain and manure the Land, and not for Hogs, Geese and Goats.

2. Common appurtenant is, where a man hath Common of pasture time out of mind of man, and by prescription, but not of common Right belonging to an ancient house or Messuage: This Commoner may use his Common of Pasture with all manner of Cattle; yet, so as he that hath common appurtenant, may have sufficient Common of Pasture for his Tenements.

3. Common in gross, is of two sorts; that is, Common in gross in number, and Common in gross without number.

1. Common in gross in number, is where a man hath

hath Common of pasture ; for example, 10.20 or any number certain of Oxen, Horses, Sheep or Kine.

2. Common in gros without number, is where one hath Common of pasture for all manner of Cattle ; and yet this Commoner must use his Common of pasture so, as he that hath Common appendant, may have sufficient Common of pasture.

4. Common per Cause de Vicinage, is, where two Town-ships or Lord-ships adjoin together, and there is no division of their wastes asunder ; if they of the one *Mannor* put forth their Cattel out of their houses or lands, and that of their own accord, and they go into the other, 'tis lawful for them so to do; but if the Owner either drive them thither, or stasse-heard them, there he is a trespasser.

25. You shall next inquire of Rechuser ; and that is, if any man occupy two Farms, the one within this *Mannor*, and the other without the *Mannor*; and at such times as your Commons be good, and your fields cast open, he bringeth his Cattle from the other *Mannor* into this *Mannor* here to depasture; this is a wrong, and you ought to inquire of it, and present it; for none can put Cattle merchandise upon the Common, such as he buyeth at one Fair, to sell at another: neither can any put the Cattle of strangers upon the Common, upon a false pretence they are his own ; but if he do so, he is a trespasser.

26. You shall next inquire of the Statute of *Mortmain*, being the Stat. of *Magna charta*, called the *Great Charter*. And that is, if any Tenant of this *Mannor* hath made any Feoffment, Gift, Grant, or any alienation to any religious house, and their Successors, or to any religious person, and their Successors, or to any Guild, Fraternity or Corporation, and their Successors, not having first obtained the licence of the Kings Majesty, under the great Seal of *England* ; and the licence of the Lord of this *Mannor* so to do, the Lord may enter, and take such Lands as forfeit within a

year and a day. It is also holden by the Lord Brook in his Abridgment, That a Lease made to any of these uses for 100 or more years, is Mortmain, and the Lord may take the same.

27. You shall also inquire, if any Tenant of this Mannor hath sold away his Lands, and not given notice of it to the Lord; and he that hath purchased it, hath not come to the Court, and done his fealty and suit of Court, whereby the Lord may know his Tenant, and of whom to avow, and of whom to receive his Rents, Customs and Services, this is inquirable, and presentable.

28. You shall next inquire of the Statute of waste, called the Statute of 7 H. 8. That if any have suffered to decay any house of husbandry, by taking away the profits from it, and laying to another, here the Lord ought to have the Moiety of these profits, till it be made a husbandry again.

29. If any have committed any Trespass in the Lords Demesnes, be the same Land, Meadow, Pasture, Wood or Water; or if any have fowled or fished in the Lords Rivers, or hawked or hunted in the Lordship, you shall inquire of it, and present it.

30. You shall inquire if any have taken any Honey or Swarms of Bees within this Lordship, whereof the owner is not known or if any have taken any Hawkes, or Ayries of Hawkes, and present them.

31. If any Tenant of this Mannor, or any of the Lords Officers have taken any Distress for Amerciament, Rent, Service, or Damage-feasant, and is rescued in taking of it, or in carrying it to the pound, this is here inquirable, and presentable.

32. If any Cattle have been pounded in the Lords pounds, and be thence delivered without Authority of Law, this is also inquirable and presentable.

33. If

33. If any have plowed up any Meerstones, or removed any Land-Marks, or plowed up any Reynees or Ballees between Lord and Lord, or between Lord and Tenant, this is Inquirable and presentable.

34. If any have incroached any parcel of the Lords wastes, though it be but a small quantity, be it for setting streight of his hedge, his ditch or pale, or any easments about his house, yet it is wrong to the Lord ; you ought to inquire of it, and present it.

The Preamble.

AS nothing is justly to be compared, either for the preservation of the Prince, for the prudent and politique Provision of the people, for conservation of Peace and Concord, or for grave Government of every Kingdom to true Obedience ; and observing of the laudable Laws of this Realm : For by Obedience every man is taught : First to give unto God due Honour and Glory, to the King his appointed Prerogative, to respect Rulers as is required ; and lastly to discern the diversities of degrees. Even so there is nothing more odious to God, nor hurtful to man, more peril to the Prince, more pestilent to the people, more contrary to Christian Peace, nor yet more danger to the Realm, than Disobedience, the daughter of the Devil, and mother of Discord.

For as by humble and true Obedience each man is moved to give God true Honour and Glory, to the King his appointed Prerogative, the chief Lord his reverence and service, and to every degree his due respect : Even so, by Disobedience, Gods Glory is defaced, the King is in peril, the Lord of this Mannor abused, and the Kingdom consumed.

I could

I could here declare to you at large, what happened to Adam in Paradise for Disobedience; what happened to the old World in the time of Noah, and to divers others since, but of these I forbear to speak, seeing you are well taught what is the end & reward of disobedience by domestical examples, which I rather think better with silence to slip over, than with large discourse to relate.

Numbers, cap. 15 ver. 32. While the Children of Israel were in the wilderness, they found a man that gathered sticks on the Sabbath day.

33. And they that found him gathering sticks, brought him to Moses and Aaron, and unto the whole Congregation.

34. And they put him in ward, because it was not declared what should be done unto him.

35. And the Lord said unto Moses, the man shall be surely put to death, all the Congregation shall stone him with stones without the Camp.

36. And all the Congregation brought him without the Camp, and stoned him with stones, and he died as the Lord commanded Moses.

Divers good Expositions upon this part of Scripture, do affirm, that if the people had not presented this offence unto Moses, or if the Congregation had not executed the Law upon him, they had all been guilty, and partakers with him in his sin.

How much more you (if you do not both present and punish Offenders and Offences which are tyed with a double bond; the one with the like bond wherewith the Children of Israel were tyed; the other with an Oath, which is the calling Almighty God to witness, that that which you shall do is the Truth, and shall be by you performed without partiality or respect of persons.

When you lay this to heart, make conscience of your Oaths, and Duties to God, set aside all fear and partiality, and present according to the Articles of your Charge.

Another

Another in a Court-Baron.

BY the ancient Laws of this Realm, this our Kingdom of *England* is an absolute Monarchy and Empire, consisting of a head and body politick, compact and compound of divers members; all which are divided into two general parts, that is, the Clergy and Laity; both which, next and immediately under God, ought to be subject and obedient unto the King their head: for he is their head, and they are his members; and he is ordained to govern these his Kingdoms and People, and especially the holy Church, and to defend the same from all Errors, Mischiefs and Iniquities, and to root out all Malefactors and evil Doers which do disturb the Peace of the Kingdom, by the execution of such Laws and Statutes as are made for that purpose: All which he hath committed to his Judges, Justices, and other inferior Officers and Ministers, as it is meet and convenient that he should, because they are his Substitutes, for the well governing of this his Kingdom in Peace and Tranquillity.

And here by the way, I shall shew unto you, that these Court-Barons be very ancient, and of a long continuance, and that originally they were ordained by Barons and Noblemen who had Seats and Voices in the upper House of Parliament; but in this later age they are almost devided from Barons to come to Knights and Gentlemen, as now you see. And primarily, they were ordained for three ends or purposes:

The first was, to set Rest and Quietness betwixt the Lord and Lord adjoyning together, that one of them shall not wrong another:

The second was, to set Rest and Quietness betwixt Lord and Tenant adjoyning together; that on the one side the Lord should not wrong the Tenant, but quietly permit and suffer him to occupy that for which he payeth his Rent, as in all reason he ought: For as *Bracton* saith, *The Lord is*
ut

as much bound to the Tenant, as the Tenant to the Lord, his reverence set apart.

And on the other side, The Tenant should not wrong the Lord, by with-holding or with-drawing from him his Rents, Customs or Services.

And the third and last end was, To set Rest and Quietness between Tenant and Tenant, and that one of them should not wrong another; And if any wrong be done amongst them, under the value of forty shillings, here is the place of redress for it. And every trespass and offence must be punished by an Amerciament, which must be presented by 12. men, that be sworn, and sessed by the Officers of the Court. Now this Amerciament must be reasonable, according to the quality of the offence; according to the Statute of *Magna Charta*, cap. 14. & *westm.* 1. cap. 16. and not outrageous; and also the Lord may not compel his free Tenants by way of distress, to answer any thing concerning his Free-hold by the Statute of *Marlbridge*, cap. 22. & 15 R. 2. cap. 13. And by another Statute made in 16 R. 2. If any Lord doth compel any of his Free-Tenants, to come either before him or his Council, to answer concerning his Free-hold, he shall forfeit 20 l. to the King.

Wherefore considering now, that these Court-Barons were first ordained for these that I have already shewed unto you; And that the redress of all wrongs, and punishing of all Offenders within his Lord ship, doth wholly rest in you; And that you be here sworn, and put in trust, as the worthiest and most fit men for this purpose. It becometh you to be careful and respective of your Oaths and Duties to Almighty God.

The Prophet *Jeremy* teacheth us a good Lesson, and that is this. *Jurabis* (saith he) *in veritate, in judicio, & in justitia. & amovete a vobis odium & iram, odium & iram*: that is, You shall swear in Truth, in Judgment and in Justice, not regarding the Greatness, Power and Authority of the Rich; nor the Weakness, Poverty or Imbecillity of the Poor; but in all things follow that saying of the wise Philosopher *Plato*, *Justitia est judicium, ubi non persona sed opera considerantur*: Justice is that Judgment, where not the person but the works are considered. Et, *Ex cordibus vestris omnem affectionem expellite, & memo-*

res estote quantas minas Deus instituit pro juramenti violatore. You must, if you would do as you ought to do, remove all affections out of your minds, and call to remembrance what threatnings God had laid upon such as have violated their Oaths. For it is written in the 24th Chapter, *Leviticus*, Verse 14. *Qui blasphemat nomen Dei mortem morietur.* That he that blasphemeth the name of God, shall die the death. And in the 5th Chapter of the *Acts* of the Apostles, it was said unto *Annanius* and *Saphira*, *Non viues quia loquutus es mendacium, & confestim occisi fuerunt pro mendacio in vendendo agri*; That it was told them they should live no longer, because they had dealt deceitfully, and made a lie to colour their deceit, in selling the field, and they were presently slain for it. If God in those days did so punish them for making of a Lie, which in this age is a thing so common, how much more will he punish those which do not stick only to swear, but wilfully do forswear themselves. Let us therefore in the fear of God be warned by the harms of others, lest the like Judgment that light upon them befall us.

In doing well and performing your Duties in this service, which you are about to take in hand, you shall both please God, give good content to the chief Lord of this Mannor, and cause the Kingdom to increase and flourish amongst you, and both your selves and your neighbours to live in rest and quietness together.

But on the other side, if you be remiss herein, or either wilfully or negligently over-pass your Duties, you shall not only offend God, wound your own Consciences, and cause others that are of a wicked disposition, by your lewd example, to attempt the like; but also you your selves must be esteemed, adjudged and deemed to be the causes of all misdemeanors and offences that are or shall be within this Lordship; and to be ayders and supporters of all Malefactors and evil doers within this Mannor; for it is you that must publish and make known unto us both offenders and offences, to the end such course may be taken, as by the Laws and Customs of this Court are and shall be provided.

And

And therefore once more putting you in mind of your Oaths and Duties to Almighty God, I will cease to trouble you any further at this time by way of Exhortation, and so proceed to the matter of your Charge.

The Charge.

1. **F**irst, you shall enquire of the *Suitors* which owe Suit to this Court, whether they be Heirs or no, and present their Names that make default, for they which be absent ought to be present here as well as you, except they have some lawful Impediment to the contrary; for they hold their Lands aswel to do their Suit, as to pay their Rent; so that if they do not their Suit, they shall be amerced, or the Lord may have good Remedy for the same. Also you shall understand, That every common Suitor is bound by the Laws to appear at the *Lords Court-Baron* every three weeks: notwithstanding the Lord for your ease, (which he esteemeth more than his own profit) suffereth it to be kept but seldem, as appeareth; for which cause every of the Tenants ought to be more willing to come unto this Court at such times as are appointed for the holding of it; for if they voluntarily absent themselves, then they render evil for good, for when they did Fealty, they were sworn to be true Tenants unto their Lord, and to pay, and do all manner of Suits, Customs and Services due for their Tenements at their day assigned, and therefore let every man remember his Oath and Duty, and do his Suits and Services according to the same, otherwise he shall fall in the danger aforesaid.

The tenants are obliged to appear at every three weeks end at the Lords Court-Baron.

What Tenants are dead since the last Court.

2. Next you shall enquire, whether there be any Tenants dead since the last Court-day or before, whose death as yet is not presented, and you shall present the same: And what Lands and Tenements he holdeth of the Lord of this Manor.

nor at the time of his death, and by what Services, to wit, Whether it were by *Knights-service*, *Soccage-tenure*, or *Copy hold*, and what advantage the Lord shall have by his death, as *Relief*, *Escheat*, *Fine*, *Heriot*, &c. and who is his next Heir, and what age he is of, and in whose custody, and present it. You shall understand, there be divers manner of Tenures, but most men do hold by *Knights-service*, or *Soccage-tenure*.

Knights-service is when the Tenant holdeth of the Lord *Knights-service*, that is to say, by the service of the *Shield*; also service to hold by *Castle-guard*, to wit, to keep a *Castle* or *Tower*, what it is, or other place of his Lords upon reasonable notice, when the Lord heareth that enemies come into *England*, that is *Knights-service*.

Also he that holdeth by *Homage*, *Fealty*, and *Escuage* holdeth by *Knights-service*. Also he which holdeth of his Lord to *Fealty*, and blow a *Horn* to warn the men of that Country when enemies do invade *England*, holdeth by *Knights-service*, and *Knights-Knights-service* ought always to be done by a man in service. his proper person, which formerly drew unto it Ward, and *Kt. service* Marriage, and at this day Relief: for when such a Tenant died seised, and his Heir male within age and unmarried, the Lord had the Land holden of him, and also the proper marriage of him until he were of full age, viz. the age of persons. 21 years. But if such a Tenant died seised, his Heir female being of fourteen years or more, then the Lord should neither have had Wardship of the Land, nor of her body: for the Law intendeth, that a woman of that age may have a Husband able to do *Knights-service*: and if she were within fourteen years of age and unmarried, then the Lord had the Wardship of her Land, and also of her body, until she attained the age of sixteen years, and this at this day is extinct, of which see more in the Act of Parliament for Acts in the taking away of the Court of Wards. And some such Wards, &c. Tenants do hold by half a *Knights-service*, and some by half a Fee, and some by more, and some by less; and if of Parliament for such a Tenant dieth, which holdeth by one *Knights-fee*, the taking and his Heir being of full age, then the Lord shall have away of the *Homage* and *Fealty*, and also five pounds for a Relief (of Court of this see the said Act) of him that holdeth by half a *Knights-fee* Wards.

two pounds ten shilling; and he that holdeth by more shall pay more, &c. you shall therefore present whether any such *Tenant* died seised of any such Lands and Tenements, so holden, yea or no.

If *Tenant* by

Knights-

service

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Feoffment to

his *Heir*.

Alienation

by collusion

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Entry for

conditions

broken.

Disseising

of the *Ten-*

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death be-

fore any re-

entry.

What *Soc-*

cage tenure

is.

3. Also you shall enquire, whether any *Tenant* which holds by *Knights-service*, made any *Feoffment* to his *Heir*, and after died, his *Heir* being within age.

4. And whether any such *Tenant* made any *Alienation* of any such Land so holden to any person by collusion, to defeat the Lord of his profits, and present that.

5. Also you shall enquire, whether any such *Tenant* which held by *Knight-service*, did make any *Feoffment* by Deed to his use, or any *Recognizance* by *Fine* to his use, or suffer any recovery against him to his use, and after died, and no will by him declared, and present it: for in those cases also the Lord shall have *Relief* of his *Heir*, being of full age, and other Duties, as well as if his *Tenant* had died seised.

6. Also you shall enquire, whether the *Heir* of such a *Tenant* entered into any such Lands so holden, for any condition broken, being made by any of his Ancestors, and present it.

7. Also you shall enquire, if any *Tenant* which held by *Knight-service*, was disseised of Lands so holden, that is to say, put out of them by one who had no right or title to them, and after died before any Re-entry, or any legal Recovery had, and present it.

8. *Soccage-tenure* is, where the *Tenant* holdeth of the Lord by *Fealty*, and certain Rent for all manner of services, or by *Homage* and *Fealty* for all manner of services, or to pay a sum of Money for *Escuage*, or to pay a certain sum of Money for *Castle-gard*: All such Tenures are *Tenures in Soccage*: And all other Tenures which are not Tenures by *Knights-service*, are *Tenures in Soccage*: and where such *Tenants* die seised of any Lands so holden, the Lord of whom the Land is so holden, after the death of his *Tenant*,

Tenant, can have no more profit, but only his *Fealty* and *Relief* is as much money and service as one years *much money* Rent doth amount unto. As if the Tenant held by *Fealty*, as one and ten shillings for a *Relief*, over and besides the ten shillings, which he shall pay for his Rent, and in such case after the death of the Tenant, such Relief is due to the Lords maintenance, so that the Heir be of the age of fourteen years, and he ought to tarry for his Relief until the day of payment of the Rent; but he ought to have his Relief maintenance, and for that he may distrain immediately after the death of his Tenant.

9. Also if a *Copy-holder* die sole seised of any Lands or Tenements so holden, his Heir being of the age of fourteen years, then he shall pay a Fine unto the Lord, and do *Fealty*, and be admitted Tenant: But if the Heir be within the age of fourteen years, then some Guardian shall be admitted to occupy his *Copy-hold*, and to pay, and do his service due for the same, *viz.* If any Lands descend from the Father, then the Mother of some of her next kindred, shall have the occupation of the same Lands, until the Heir be at age, and they shall have a little Fine for the Guardian-ship, and the Heir at his entry shall pay the whole Fine; you shall enquire thereof, and present the same.

10. Also you shall enquire, whether any Tenant which *if Tenant by* held by *Socage-Tenure*, did make any Feoffment in Fee to his *Socage* use, and died seised of the use, his Heir being within age, and *made any* no Will by him declared of the use, and present it, for that *feoffment* the Lord shall have his *Relief*, as well as if he had died seised to his use of the same Lands.

11. Also you shall enquire, whether any *Free-holder* hath alienated or sold away his Free-hold Land or Tenements, *Freeholder* or any parcel of them, and present it; for he which hath *both alie-* purchased the Land, before he enter, ought to come and *nated any* give notice unto the Lord, that he hath purchased the same, *of his free-* and so the Lord shall know his Tenant, and the service which *hold Lands* the former paid unto the Lord, shall be apportioned according unto the value of the Lands.

*Herriot-
service,
Herriot-
custom.*

12. Also you shall enquire whether any that held by *Herriot-service*, or *Herriot-custom* died seised of any Lands or Tenements so holden, and present it, for their Service shall be apportioned: also the Lord shall have of every of their several parts divers *Herriots* at their several deaths. Also if one man have two several parcels of Lands holden by *Herriot-service*, and by two several Titles, and dieth seised of the same, the Lord shall have after his death two *Herriots*.

*whether a-
ny Copy-
holder died
seised of
any such
Lands.*

*How a Co-
pyholder
ought to
surrender
his Copy-
hold.*

13. Also you shall enquire, if any *Copy-holder* died seised of any lands so holden, and present it; also whether any *Copy-holder* hath made any *Lease* of his *Copy-hold*, or otherwise alienated or sold the same, and present it, for it is a forfeiture of his *Copy-hold*: For if a *Copyholder* will alien or sell away his *Copy-hold*, he ought to come into the Court, and surrender the same into the hands of the Lord, to the use of him who shall have the Estate, or else out of the Court he ought to surrender it unto the Balliff, or to some of the Tenants of the Lord-ship, to the use of him who shall have the Estate, and they to whom the surrender is made, ought to present the same at the next Court, and then pay his Fine for the same, and take it to his use in the Court, and do his endeavour to be admitted; and if he be not at the same Court, then the Lord shall have the mean profits of the same Lands, all the Rent-services and Reparations being deducted, until he be amerced of his Fine, according to his Duty.

*whether a-
ny Copy-
holder hath
made any
surrender.*

14. Also you shall enquire, if any *Copy-holder* hath made any surrender of his *Copy-hold*, or any part thereof since the last Court-day, or before, and present it, and into whose hands it was made, and in whose presence, or to whose use: for at every surrender the Lord ought to have a Fine, and the Party into whose hands the surrender is made, ought to come to the next Court, and present the same, and to yield up his Right into the Lord's hands, to the use of the alienee, according to the Trust reposed in him; or otherwise he forfeiteth his *Copy-hold*, except he have a reasonable excuse: for that he doth as much as in him lies, to defeat the Lord of his Fine, and also to defeat the other party, to whose use the Surrender was made.

15. Also

15. Also you shall enquire, if any Tenant of the Lord-ship have given any Lands into *Mortmain*, and present it.

Mortmain:

Mortmain is, If a man give or sell any lands to any house of religion, or to any other which be corporate by the Kings grant: also if one make a Feoffment upon trust to the use of a religious House, or to the use of a Fraternity corporate, that is *Mortmain*.

What Mortmain is:

Also if one exchange Lands with a body corporate, this is *Mortmain*.

Also if a Religious person, or other body corporate, doth hold of any man by *Knights-service*, and he release unto him, this is *Mortmain*, and then the Lord may enter and shall hold the same by force: you shall therefore present them that have given any Lands or Tenements in *Mortmain*.

16. Also you shall inquire, whether any Tenant for term of life or years or any Copy-holder of this Lordship hath committed any *Waste* or suffered any *waste* to be committed upon their Lands or Tenements.

Waste:

waste is, When any Tenant for term of life, years, or any Copy-holder, pulleth down any house, or cutteth down any Timber-trees, or suffereth the house willingly to fall, being on their Copy-hold Tenements; or if any of the Tenants plow up any Meadow-ground, or if they suffer any Wall or Pale which were covered, to be uncovered, by reason whereof the same wall or Pale falls into decay; or if any of them dig Coals, Chalk or Sand, or make any Mines in their grounds, this is *waste*.

What waste is, and how the same is committed:

Also if they cut down a Tree to the value of three shillings four pence, this is admitted *waste*: but if a man cut down Timber to repair the old Houses that stand upon parcel of the same ground, and therewith doth repair them, then it is no *waste*: But if he with Timber, build a new House, then the cutting down of such Timber, is *Waste*: Or if he cut down any Timber to sell to repair such Houses which are fallen into decay, such is *waste*. But if *waste* be done with a Tempest, no Tenant shall be punished for such *waste*: but if *waste* be done by any danger,

the

the

the Tenant shall be punished for such waste. Also it is no waste to fell in a reasonable time such Trees as have been felled within twenty years before : But if Tenants cut down such Trees to burn upon their Tenements, where they have Wood sufficient, this is Waste. Also a Copy-holder may not cut down Wood to sell, but he may to burn upon Tenement, or to make Reparations, as aforesaid.

whether any Tenant in possession or reversion died seised without any Heir.

17. Also you shall enquire, whether any Tenant in possession or reversion died seised of any Land or Tenements holden of the Lordship, having no Heir at the time of his death, yea or no, and present it ; for then the Lord shall have the Land holden of him by Escheat. You shall understand, that none shall have Land in Fee-simple, as Heir unto any man, unless he be Heir of the whole blood : for if a man have issue two sons by divers women, and dieth without issue, the younger shall not have the Land as Heir to his brother, because he is of the half blood, but another Heir of the Fathers side, shall inherit the same Land ; and if he have no Heir of the Fathers side, then the next Heir on the Mothers side shall not have the Land, but the Lord of whom the Land is holden, shall have it by Escheat ; and so when Land descendeth on the Mothers side, the Heir on the Mothers side shall inherit, and not the Heirs of the Fathers side. Also you shall understand, that *Filius in Adulterio conceptus*, viz. a Bastard can never be Heir unto any man, nor have unto himself : Therefore if any Bastard, or any other Tenant have died seised without Heirs, you shall present it.

A Bastard may not inherit.

whether any Tenant died being put out of his land by one that had no right to it.

18. Also you shall inquire, if any Tenant seised of any Lands or Tenements, and was put out of the Land by one who had not a right Title, and afterward died without any Heir, the Lord shall have his Escheat, as well as if his Tenant had died seised.

19. Also you shall enquire, whether any Tenant of his Lord-

Lord-ship hath committed any *Petty Treason, Felonies or Murders*, for the which he was hanged, or for the which he had Judgment to be hanged, though afterwards he paid his Charge, and was delivered to the Ordinary, and present it. And whether any Tenant hath committed any *Petty Treason, Felony or Murther*, for the which he hath abjured the Land, for which he was out-lawed, or suffered death, and present it: For in all those cases the Lord of whom the Lands are holden, shall have them by *Escheat*, and also the evidences concerning the same.

20. Also you shall enquire; if there be any Rents, Customs, or Services with-drawn from the Lord-ship, which of right ought to be done, and present it, and what Rents, Customs and Services they are, and by whom they are with-drawn, and where the Land lieth, that the Lord may have the remedy for the Arrearages thereof.

Also you shall enquire, whether the *Copy-holders* or Farmers of this Lord-ship do uphold and repair their Tenements yea or no, and present them. You shall understand, that every Tenant is obliged to three things, *viz*

1. That he be a true Tenant to his Lord.
2. That he sufficiently repair his Tenements.
3. That he pay and do all Suits, Customs and Services at his days assigned: for he took upon him to do so when he did *Faalty*; and if he do not pay his Suits, Customs and Services, the Lord shall have good Remedy, and recover the same with his damages: And if he be a Copy-holder, and do the contrary, he forfeits his Copy-hold.

21. Also you shall enquire, if any Tenant of this Lord-ship, which is obliged by Reason of his Tenure to do suit unto the Lord, will do the same, yea or no, and present; And whether any have used to with-draw their Suit from the Lords *Mill*, in not grinding their Corn there, and present it.

*waife and
stray.*

22. You shall also enquire whether any *waife* or *Stray* is, or was within the *Lordship* and whether the *Lord* be answered of the same; if not, present by whom they are conveyed away: Also you shall enquire if any *Herviat* be conveyed away, and by whom, and present it.

Rescous.

23. You shall also enquire, Whether any person have made *Rescous* against the *Lord*, or any other officer, and present it.

what it is.

Rescous is, when the *Lord* distraineth in the *Land* holden of him for his *Rent* or *Services* in arrear; or if the *Lord* come upon the *lands* and would distrain, and the *Tenant* or some other will not suffer him, this is *Rescous*. Likewise if the *Lord* distrain for service behind, or for damage-feasant, and in driving *Cattle* to pound, the *Beasts* enter into the *House* of the *Owner*. If he that distraineth pray deliverance, and the *Possessor* will not deliver them, this is a *Rescous*, therefore if *Rescous* have been made, you shall present it.

*Breach of
pound.*

24. Also you shall enquire, whether any person hath broken the *Lords pound*, that is, to have taken away a *distress* put in, and present it. You shall understand, that if the *Lord* do distrain any *Tenant* for *Rent* or *Service* in arrear, he may impound the same *Distress* in a *Common pound*: if he will, or in his own pound, or in his *Neighbours* if he will; by the licence of his *neighbours*; and all those places in which the *Lord* doth impound any *Cattle*, are called the *Lords pound*: but not so, when another doth impound any *Distress* in his own pound, or in his *Neighbours*: It behoveth him to give notice to the other party; for that if the *distress* be quick, he may give it meat; and then if the *beast* die for want of sustenance, he that was distrained, shall be at the loss, and then he that distrained before, may distrain again for the same *Rent* or *Duty*.

*Whether any
Tenant
hath let a-*

25. You shall also enquire, if any *Tenant* within the *Precincts* of this *Mannor*, hath suffered any *Farm* or *House* to fall to decay, which at any time since the first year of the *Reign*

Reign of Hen. 7. hath been let with twenty Acres of Land, *ny Farm* and present it; For if they suffer their houses to fall to decay, the Lord may take and distrain for half of the issues and *fall to decay, viz.* profits of the same, and keep to his own use, until such time *not maintained for* as the houses shall be sufficiently builded and repaired, *husbandry, as before.*

25. Also you shall enquire, if any Inhabitants or *Commoners* have over-charged the *Common* or High-ways, or your *Common fields*, by putting in your Cattle than they ought to do; and whether any of them have put their Cattle in any the *Commons* aforesaid, before the days agreed upon, and present it; for the Lord (as it seems) may distrain the Surplusage damage: *feasant, or else you may make among your* selves Orders and Laws for your own profit, that none shall do upon certain penalties, *&c.* and by such *Laws* the Inhabitants and Commoners shall be bound, *&c.*

If any have over charged the Common, or high-ways or put Cattle in them before the days agreed upon.

27. You shall also enquire, if any persons have made any Pits in the High-ways, and whether any person do commonly break Hedges, and suffer any Hogs go unyoaked or unringed, to the annoyance of their Neighbours.

If any persons have made pits in the high ways, breaking of hedges, &c. Stopping of ways, waters, &c.

28. You shall also enquire, whether persons have drained or stopped any ways, waters, ditches, paths, or turned any of them into a wrong course, and present it.

Whether any have encroached

29. Also if any have incroached any Land of the Lords, *viz.* Land, Meadow, Pasture, Wood, Heath, Moor, or any other vacant Land without Licence of the Lord, by setting of his hedge, pale or otherwise, and present the same.

Note, That all the vacant and waste Land within the *Mannor*, belongeth to the Lord of the *Mannor*.

30. You shall also enquire, whether any person have plowed up, or removed away any Mere Marks, Baulks or Limits between one piece of Land and other, and present it.

whether any have removed any marks.

- whether a-ny have stalked with bush or beast.* 31. Also you shall enquire, if any have stalked with a bush or beast to kill *Deer* within the Lords Close or Park, and present it.
- whether a-ny have or do keep a-way any evidences.* 32. You shall enquire, if any person hath, concealeth, or keepeth away any evidences, Charters, or Court-Rolls, Customary Terrers, or any other evidence which concerns the Lord-ship, or any parcel thereof, and present it.
- whether a-ny have fished, fowled, &c.* 33. Also you shall enquire, if any person have fished, fowled, hawked or hunted in this Lord-ship, or Lords-warren, and present it.
- whether a-ny have taken any Feasants, or Partridges with net, snare, or other Engine upon the Free-hold of the Lord of this Mannor, and present it.* 34. You shall enquire also if any person have taken any Feasants, or Partridges with net, snare, or other Engine upon the Free-hold of the Lord of this Mannor, and present it.
- whether a-ny have taken any Feasants, &c. Swans or Swans eggs. Concealed land.* 35. Also you shall enquire, if any have taken away any Swans, Cignets, or eggs of the Lords Swans out of their Nests, and present it.
- Trespas in corn, grass, &c.* 36. You shall likewise enquire, if any Lands of the Lord be concealed or kept back, or occupied by any without the licence of the Lord : Also what land it is, and how much land hath been so occupied, and of what value by the year the same is, and present it.
- Trespas in corn, grass, &c.* 37. Also you shall enquire, if any Trespas be done in any of the Lords liberty, viz. in his Corn, Grass, Meadows, Pasture, Woods, Hedges, Waters, or Ponds ; or if any take Hawks, or Ayre of Hawks, or such like trespas, and present them.
- For inclosing in several grounds without the licence, &c.* 38. You also shall enquire, if any land be inclosed, and the same kept in severalty, which ought to lie open, without licence of the Lord and other Free-holders, you shall present it ; for no Tenant of the Lord-ship shall lose his Common in the same.
- A Copyholder may* 39. Also if any copyholder let his copyhold Land for longer time than a year and a day, without licence, except it be by

by Custom that they may let for longer time, and if he do, it is forfeiture, and present the same.

40. You shall also enquire, whether any Tenant for years or life, have granted any greater or larger estate than they had in their Lands or Tenements, and present it, for that is a forfeiture of their Estate.

not let longer than a year and a day.

Granting greater estates.

whether the

41. Likewise you shall enquire, if the Bailiff, Headbourough, Constable and Hayward, and all other Officers have well and truly executed their Offices, and present it.

Bailiffs, &c. do execute their Office.

42. You shall likewise enquire, whether all the defaults and plaints that were prosecuted at the last Court, be sufficiently amended; and whether all the Orders and Laws heretofore made, be observed and kept, and present it.

whether the defaults & plaints be amended.

43. To conclude, You shall enquire of all other things by me omitted, which you know to appertain to your Charge; and by the Oaths that you have taken, you shall truly and diligently enquire of all the premises, and plainly without concealing of any fault, and make a return of your presentment, subscribed with your hands, and sealed with your seals, by three of the clock in the afternoon.

Conclusion.

Then command the Bailiff to make Proclamation, Oyes, and adjourn the Court till after dinner, in this manner:

Adjournment.

All manner of persons that have any more to do at this Court, may for this time depart, and keep their hour here at two of the clock in the afternoon.

After you return from Dinner, if any surrenders or admissions be to be made, or actions to be tried, let them be done: Otherwise call the Jury for their presentments, if they be ready, and swear two Assessors to assess them as before at the Last. Then discharge the Court, the Bailiff making an Oyes, thus:

All manner of persons that have any more to do at this Court holden here this day, let them come forth, and they shall be heard, otherwise they, and every one else, may for this time depart, and keep their day here upon a new warning. And so God save the King, and the Lord of this Mannor,

The discharge of the Court.

Some

*Some select Cases out of the new
Reports, and others, con-
cerning the Lord, Copy-
holder, and Copy-holds,
Surrenders, Forfeitures, &c.*

First, of the Lord.

HE that is a Lord to grant and allow a *Copy-hold*, must be such a one, as by *Littleton's* definition, is seised of a *Mannor*, so that he must be in the possession at the time of the Grant; for though he have good Right and Title, yet if he be not in possession of the *Mannor*, it will not serve. And on the other side, if he be in Possession of the *Mannor*, though he hath neither Right nor Title thereunto, yet in many Cases, the Grant and Allowance of such a *Copy*, is good, as he is

ACopy-hold Dominus de Facto, sed non de jure. Calthrop, 48. granted by a *Copy-hold* granted by a Disfeisor, or any other who a Disfeisor, hath the *Mannor*, of which it is parcel by wrong, shall be may be a- avoided by the Disfesse, or any other who hath right to the voided by *Mannor* by his entry or recovery of the *Mannor*. *Pophams the Disfei- Rep. 71.* Yet it was agreed, that admittance upon Sur- fers. But ad- renders of *Copy-holders* in Fee, to the use of another; or mittance if an Heir in case of a descent of a *Copy-hold* were good, upon sur- being made by a Disfeisor of a *Mannor*, or any other who renders, hath it by Tort, because these are Acts of necessity, and for the &c. good. the

the benefit of a stranger, viz. of him who is to have the Land *Owen Rep.* by the Surrender, or of the Heir: And also Grants made by fol. 115. Copy by the Feoffee, upon Condition, of a Mannor, before the Trin. 1. Jac. Condition broken, are good, because he was lawfully Dominus rot. 853. pro tempore. Ibid.

If a Lord grant a Copy in Fee, having but an Estate for life in the Copy-hold, no larger Estate shall pass than he himself hath, *Quia nemo potest plus juris in alienum transferre, quam ipse habet.* Co. of Copy-holds, fol. 96. *None can pass a larger Estate than he hath.*

If the Lord of a Mannor taketh a Wife, and after maketh Copy-hold Estates, according to the Custom, and dyeth, though the Feme hath this Mannor assigned unto her for her Dower, yet cannot she avoid the Copy-hold Estates, because the Copy-holders are in by a Title, paramount the Title of the Feme, viz. by Custom. Co. of Copy-holds, 45. *Copy-hold Estates not to be avoided for Dower.*

A. forge un Customary Escrip^t de Services & Customs, d'un Mannor al prejudice del Seigneur, cest est forgery d'un interest deins 5 Elizab. cap. 14. Pars gravata avera double costs & double damages, & sur cest Judgment in le Star-Chamber, ceux damages & costs seront levie per brief Anglois direct au viscount in nature de levare facias de Bonis, Catal-15 Eliz. lis terris, &c. le offendor, & Fine imposed sur le Offend- Dyer. 323. dor pur le Roy, in cest case targerá jésque dits damages & costs seront levie pur le party grievé per course de cest Count & Common Ley.

Secondly, Of the Copy-holder, and Copy-hold.

HE Is Tenant by Copy of a Court-Roll, being admitted of Lands or Tenements within a Mannor, that time out of mind by use and custom of the said Mannor, have been demisable, and demised to such as will take the same in Fee, in

in *Fee-tail* for Life, years or at Will, according to the custom of the *Mannor*, by *Copy of Court-Roll* of the same *Mannor*, *west. Part 1. Sym.lib. 2. sect. 646.*

what person is sufficient to be a Copy-holder.
Eliz. Dyer
301.

And that person is sufficient to be a *Copy-holder*, who is of himself able, or by another to do the service of a *Copy-holder*; as an *Infant* may be a *Copy-holder*, for his *Guardian* and *Prochein amy* may do the service: But a *Lunatick* or *Ideot* cannot be a *Copy-holder*, because they cannot do the service themselves, nor depute any other, and the *Lord* shall retain the *Copy-hold* of an *Ideot*. *Calihrop. fol. 52.* Nor a man cannot be a *Copy-holder* unto a *Mannor*. whereof he himself is *Lord*, although he be but *Dominus pro termino annorum*, or *in jure uxoris*, *ibidem*.

what interest a copy-holder hath in his estate.

Let us enquire what interest *Copy-holders* have in their *Estates*, and that will appear to be very strenuous; for although *Customary Tenants* are termed in Law, *Tenants at will*, yet they are not simply so, nor merely *Tenants at will*, for every *Copyholder* is but only *Tenant at will*, *secundum consuetudinem Manerii*, which Custom warrants his possession, and therefore it is a more certain *Estate* than an *estate at will*, for the *Copy-holder* may justifie against his *Lord*, so cannot a *Tenant at will*, whose *Estate* is determined at the will and pleasure of his *Lessor*: And although his *Estate* is but by Custom, and by no *Conveyance*, the *estate* is raised, it is as material, so as it be an *Estate*: And this *Estate* being supported by Custom is known in Law an *Estate*, and so accounted in Law: And the same Law hath notably distinguished *Copy-hold Tenancies* by Custom, and *Tenancies at will* by the Common Law: For a *Copyholder* shall do *Fealty*, shall have aid of his *Lord* in an *Action of Trespass*, shall have and maintain an *Action of Trespass* against his *Lord*, his *Wife* shall be endowed, the *Husband* shall be *Tenant* by the *Courtesie* without any new admittance.

8 Eliz.

And it was adjudged in the Common Pleas, 8 *Eliz.* That if a *Copyholder* surrender to the use of another for years, the *Lessee* dieth, his *Executors* shall all have the *Residue* of the Term without any admittance. *Mich. 14 and 15 Eliz.* A *Copyholder* made a *Lease* for years by *Indenture*, warranted by the Custom: it was adjudged, that the *Lessee*

Lessee should maintain *Ejectiones firme*, although it was objected, that if it were so, then if the Plaintiff doth recover, he shall have *Habere facias possessionem*, and then Copy-holds should be ordered by the Laws of the Land, 10 *Eliz.* Lord and Copy-holder for life, the Lord grants a Rent-charge out of the Mannor, whereof the Copy-hold is parcel, the Copy-holder surrenders to the use of *A.* who is admitted accordingly, he shall not hold it charged; but if the Copy-holder dyeth, so that his estate is determined, and the Lord granteth to a stranger *de Novo*, to hold the said Land by Copy, this new Tenant shall hold the Land charged. *Leonards Rep. first Part fol. 8. Mich. 25 & 26 Eliz.*

*Leonards
rep. 1. Part
f. 8. Mich.
25 & 26
Eliz.*

Tenant by Copy of Court-Roll, hath an Inheritance by the custom; but when he doth that which is contrary to the custom, he shall be then in no better condition than a bare Tenant at Will, *Bolstrod, first part, fol. 52.* so that performing the duties and services according to the custom, doth so establish and fix the estate, that the same by the custom of the Mannor is descendable, and his Heirs shall inherit the same; and therefore his estate is not merely (as I have said before) *ad voluntatem Domini*, but *ad voluntatem Domini secundum consuetudinem Manerij*, so that the custom of the Mannor is the soul and life, and also the chief basis upon which stands the whole Fabrick of Copy-hold estates; for without custom, or if they break their custom, they are subject to the Lords will.

*Copyholder
and Tenant
at will.
Bolstrod.
first Part,
fol. 51.*

And by custom a Copyholder is as well inheritable to have his land according to the custom, as he who hath a Free-hold at the Common Law, for *Consuetudo est altera Lex*, custom and usage time out of mind, &c. may create and consolidate Inheritances, *Consuetudo vincit legem*, 7 *E. 4. Danby* 7 *E. 4.* Chief Justice said, that a Copy-holder is as well inheritable to have his land according to the custom, as he who hath Free-hold at the Common Law, *Co. 4. 21.*

If Tenant by custom paying his services be ejected by Tenant may his Lord, he may have an Action of Trespass. 21 *E. 80. Co. 4.* have an
23. Action of

If a Woman Copy-holder in Fee have a Husband, who gainst the hath Lord.

*Trespass a-
gainst the
Lord.*

No Tenant hath issue, and the Wife dieth, the Husband shall not be by the court-Tenant by the Courtresie, without special Custom. *Co. resie with- 4. 22.*

out special custom.

The heir of a Copy-holder not bound to come to any

Court du-

ring his

non-age.

Whether or

no a Copy-

holder may

lop Trees.

If a Copy-holder dye, his Heir within age, the Heir is not obliged to come to any Court, during his Non-age to pray admittance, or to tender his Fine. Also if the death of the Ancestor be not presented, nor Proclamation, it is not at any detriment, although he be of full age. *Leonards Rep. first Part, fol. 128. Pasch. Eliz. B.R.*

Brownlows Rep. first Part, fol. 231. Swain and Beckett,

A Question was, That whereas there is a Mannor wherein are Copy-holders for life, who used to lop Trees, growing upon the Copy-holds, for their necessary Fire, and repair of their customary Tenements; the Lord of the Mannor maketh a Lease of the Mannor for years, excepting the Trees. The Lessee of the Mannor granteth a Copy for life, the Copy-holder loppeth his Trees growing in his Copy-hold; whether or no he might do it by Law, was the doubt of the Jury. And it was held by all the Court, *Hill. 6. Jac.* that the Copy-holder might lop the Trees, because he is in by the Custom which is above the Lords Estate after he is admitted, and that the Copy-hold depends not upon the Lords interest: And that the Trees excepted, and the soil remained parcel of the Mannor, because the Lease was but for years: But if the Lease had been for life, it had been otherwise, because it had been severed from the Mannor.

Copy-holder for life cannot claim custom to cut down and sell Trees.

But Note, That in Justice Crooks Reports, first Part, fol. 160. That a Copy-holder for life, may cut down and sell Timber Trees, and dispose of them at his pleasure, is a void and unreasonable custom, and not allowable by Law; for it is a destruction of the Inheritance, and against the nature of a Copy-holder for life. For a Copy-holder hath but a particular Estate in the Land, and so he hath in the Trees: And it is unreasonable, that he should cut down, sell and destroy the Inheritance, and it would be to the great prejudice of those who succeeded, for they should not have to maintain the House and the Plough. And it is against the nature of the Estate of a Copy-holder, that he should

do

do A&S in destruction of his Estate; therefore Customs which maintain them are allowable, but not *converso*; Vide 24 Edw. 3. Barr. 77. 21 H. 7. 40. 11 H. 7. 14. 9 H. 4. Waste 59.

If a Copy-holder of Inheritance sell his Copy-hold to one of his Heirs, this shall descend; and no Tenant by the *Cour-* *No Tenant by the court* use, nor yet Dower shall be thereof, without a special Custom for the same. *Bolbrod Second Part, fol. 275. Mich. 12 Jac.* *use nor Dower shall be of Copy-hold lands Leonard*

If I give all my Lands, Tenements and Hereditaments in D. my Copy-holds do not pass, *Leonard. Rep. First Part, 126.*

An Estate tayl cannot be of Copy-hold Lands, unless it be in case where it hath been used; for the statute *de donis conditionalibus* shall not enure to such customary Lands, but to Lands which are at Common Law; and therefore an Estate tayl cannot be of those customary Lands, but in case where it hath been used time out of mind; *Popham, fol. 34.* And it was holden afterwards, that an Estate tayl was wrought out of Copy-hold Land by the equity of the Statute *De donis conditionalibus*, for otherwise it cannot be that there can be any Estate tayl of Copy-hold Land, for by usage it cannot be maintained, because that no Estate tayl was known in law before this statute, but all were *Fee-simple*, and after this statute, it cannot be by usage; because this is the time of limitation, after which an usage cannot make a prescription, as appeareth 22 and 23 *Elix. in Dyer.*

And by 8 *Elix.* a custom cannot be made after *Westm. 2d.* And what Estates are of Copy-hold land; appeareth expressly in *Littleton* in his Chapter of *Tenant by Copy-hold &c.* And in *Brook iit. Tenant by Copyhold, &c. 15 H. 8.*

In both which it appears, that a Plaintiff lyeth in Copy-hold land in the nature of a *Formedon* in the Descender at the Common Law, and this could not be before the Statute *de Donis Conditionalibus* for such Land, because that before that Statute there was not any *Formedon* in the Descender at Common Law, and therefore the Statute helps them for their Remedy for intrayled Land, which is but customary by equity.

And

And if the Action shall be given by equity for the land, why shall not the Statute by the same equity, work to make an Estate in tayl' also of this nature of the land. *Popham Ibidem.*

And *Copy-holds* are now become by usage of such Estates, that Law allows them to be good against the *Lords* themselves, they performing their customs and services, and therefore are guided by the Guides and Rules of the Common Law, *Dyer, Trin. 12. Eliz.* And to say, that Estates of Copyhold land are not warranted but by custom, and every custom lyes in usage; and without usage a custom cannot be, is true, but in the usuage of the greater, the lesser is always implied, *omne majus in se continet minus*: As by usuage three lives have been granted by Copy of Court Roll, but never within memory, two or one alone, yet the Grant of one or two lives only is warrantable by this custom: for the use of the greater number of lives, warrants the lesser number, but not e converso.

If the *Copy-holder* by his letter of Attorney appoint the son of his Farmer his Attorney, to do the services for him due for his *Copy-hold*: such a person so constituted and appointed, may Essoyn for the *Copy-holder*, but not do the services for him, for none can do the same, but the *Tenant* himself, *Leonard. 1 Part. fo. 139.*

Copy-hold land is not extendable upon a Statute-Staple, but upon the Statute of Bankrupts it is extendable, *Brownlows 1 Part 34.* As long as a *Copy-hold* of Inheritance is in the *Tenants* hands, it is not liable to any estate or charge of the Lord, as *Dower, Courtesie, Elegit, Statute, &c.* But when it is in the *Lords* hands, it is liable, *Co. 4. 22.* But a custom in this case may make it chargeable, *Calchr. 88, 89, 92, 93.*

A Copyholder may assign one to essoin for him, but not to do his service. Copy hold not extendable by Statute-staple, but it is upon the Stat. of Bankrupts, not liable to any charge of the Lord, &c.

We will now declare something of Surrenders.

*Of Surrenders, what are good,
and what not.*

Lord and Tenant, Copy-holder by Surrender, or by nomination by force of a custom precedent, desires his Lord at his Court to admit him to the Copy-hold estate, and offers him his *Pine*, the Lord refuses, he cannot take the profits before admittance, here is *damnum & injuria*, whether for refusal he may have an action of the case or not; And it was resolved, *Pasch. 13 Jac. B. R.* That an action of the Case lies not against the Lord for his Refusal to admit him, without a special Custom, or prescription for the same, *Omnis innovatio plus novitate perturbat, quam utilitate prodest*; for if upon every such refusal an Action shall be brought; this will introduce many inconveniences, *C. 4. 22 in Browns case.* But note, that in all cases of Ministerial offices, if they refuse to do their offices, actions upon the case shall well lye against them, as against the *Clark of the Inrolments*, if he refuseth to inroll a deed, an Action upon the case lieth against him for this, but it shall not be so in cases of trusts, *Bolstrod second part, fol. 337, 338. Fords case, Hill. 12 Jac.*

upon a surrender action lies not against the Lord for refusing admittance.

In ministerial offices action lies against him that will not do his office, but not so in cases of Trust.

If a Surrender be to the Lord generally, without saying to whose use, it is good enough, *Kitch. 81.*

A Surrender to the Lord good.

If the Copyholder surrender to the use of another, and the Lord grant it to the *Cestuy que use*, not naming the surrender; this is good enough by *Calthr. fo. 90.*

A Surrender to the use of another, &c.

In a surrender it matters not, if the party to whom it is, be precisely expressed, if by any circumstance he may be known, And therefore to surrender to the *Mayor of derit mat-Tork*, next of his kin, or next of his blood, his Sister, or his Son, may be good, and it may be made certain by averment. So if it be to a Mans Wife

whom it is be precisely expressed, &c.

without naming of her, or the High-Sheriff of *York-shire*; But a Surrender to the use of ones Cousin or Friend, is void for incertainty, so it is if it be to the use of *A.B.* or *C.* *Co. 4. 29. of Copy-hold 96.*

Surrender to the Lord &c. If a Surrender be made to the Lord in general, without expressing to the use, it shall be taken to the Lords use, *Kitch. 81.*

Surrender to A.B. until he marry C.D. &c. If a Copy-hold be surrendred to the use of *A. B.* and his Heirs, till he marry *D. D.* and then to the use of them two in special tayl; this is valid, and shall enure accordingly, *Calth. fol. 22.*

Surrender to the use of a stranger &c. If a Copy holder surrender to the use of a stranger, in consideration that the stranger shall marry his daughter before such a day; In this case if the marriage succeeds nor, the stranger shall take nothing by the surrender. But if the consideration be, that the stranger shall pay such a sum of money at such a day, although the mony be not paid, yet the Surrender is valid, *Calth. fol. 37.*

Surrender to A.B. if he pay 20 l. at a day, &c. If the Copy-holder surrender his Land to the use of *A.B.* so that *A. B.* pay 20 l. at such a day if he please, this is an absolute, not a conditional surrender: *Calth. fol. 39.*

Surrender to the Lord J.S. paying 100 l. &c. If a Copy-holder surrender his Copy-hold of Inheritance into the hands of his Lord, to the use of *J. S.* paying one hundred pounds to his Executors within such a time after his death, he to whose use this surrender is made, takes by force of this presently. *Boist. 2d. part, fol. 275. Mic. 12 Jac.*

Surrender to the use of one for life &c. If a Copy-holder surrender to the use of one for life, who is admitted and dyeth, he in the reversion may enter without a new admittance, *Leonard, first part, Rep. 114.*

Copy-hold may be extinguished without an actual surrender. If a Copy-holder bargain and sell his Copy-hold to the Lord of the Mannor, which hath the Mannor in Lease for years, the Copy-hold Estate is thereby extinguished: And if a Copy-holder come into the Court, and says that he is weary of his Copy-hold, and requestis the Lord to take it, this is a surrender; for between the Lord and the Tenanr, a conveyance shall not need to be according to the Custom, for the Copy-holder hath no other use of the Custom, but only to convey the Land to another: *Vide Co. 4. in his Copy.*

Copy-hold Cases, That a Release by him who hath Right to a Copy-hold, to one who is admitted Copy-holder, extinguisheth the Right of the Copy-hold by Deed. And if a Copy holder release to the Lord, that extinguisheth the Copy-hold, although it be contrary to the nature of a Release to give a Possession. *Huttons Rep. fol. 65. Blennerhassets Case.*

*Huttons
Rep. fo. 65.
Blenner.
Case.*

A Copy-holder in Fee of a Mannor of the Dean and Chapter of *Westm.* surrendered the Copy-hold Lands out of Court, by the hands of the Tenants, according to the Custom of the Mannor, to the use of another and his Heirs upon certain conditions. At the next Court the surrender was presented, but in the presentment the Conditions were omitted. He to whom the Surrender was made, being dead, the Lord by his Steward according to the Custom, admitted his Daughters and Heirs who entered. He who made the Surrender by his Deed, released to the daughters being in possession.

*wherein a
Release to
a Copy-hol-
der, who
admitted
upon a sur-
render,
shall ex-
tinguish
the right
of the Co-
py-holder
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seth.*

In this case, amongst other points, it was resolved, That the Release in the case at Bar, had extinguished the Right of the Copy-holder; because that he to whom the Release was made was admitted to the Tenements, and so Copy-holder in possession, so as the Release of the customary right did enure to them. And it was holden, that thereby the Lord was not at any prejudice, because he had his *Fine* upon the *Admittance*; And they to whom the Release was made, were in by Title, *viz.* by the *Admittance* of the Lord, and so the Release did arise by way of extinguishment, *Pasc. 31 Eliz.* in *B.R. Kite and Quintons case, Co. 4. part 25.*

If the Copy-holder surrender to the use of his right Heirs, the Land shall remain in the Lord, until the death of the Copy-holder, for then his Heir is known, &c. See *Dyer 99. Leonards first part rep. 133.*

*Leonard
first part*

If a man seized of Copy-hold land in the right of his Wife, or Tenant in tail of a Copyhold doth surrender to the use of another in Fee, the same doth not make any discontinuance, but the issue in tail, and the Wife may respectively enter, *Leonards first part fol. 124.*

*Leonard
first part
fo. 124.*

An Infant who surrenders his Copy-hold land within age, may enter at his full age, without being put to any suit for it.
Pop. fo. 39. Poph. Rep. fol. 39.

It was resolved by all the Barons of the Exchequer, *Pasch. 4 Jac.* That if a Copy-holder surrender to the use of a younger son, and dies, that this younger son cannot bring an Action, till admittance; but if the Copyhold be descended to the heir, he may have an action before admittance, See *Co. 4. fol. 22.* Copy-hold *cases*, It was likewise said, That all Copy-holders of the KING'S Mannors may now have admittance into their Copy-hold estates well enough, and the order for the stay of their admittances, which was made heretofore is now dissolved and quashed, *Lanes Rep. fol. 20.*

Lanes Rep. 20.

A surrenderer of a Copy-hold cannot surrender before admittance.

A Copy-holder surrendered out of Court according to the custom of the Mannor, which at the next court was presented, and entry thereof made by the Steward, *viz. Compertum est Homagium*, &c. but no admittance; and afterwards *cessante* use surrenders before admittance, and the first Copy-holder surrenders to the Plaintiff; and in this case there were two questions:

First, whether he may surrender before admittance?

The second was, who shall have the land? Whether the Copy-holder or the Lord? and it was held, That he could not surrender before admittance; and the entry of the surrender, doth not make admittance, for this being the sole act of the Steward shall not bind the Lord, and it is not like to the usual form of an admittance, *viz. Dat domino de Fine, fecit fidelitatem & admissus est inde tenens*, and it was agreed to and said that in *Hare and Bricklegs Case*, the admittance of a Copy-holder was compared to the induction to a Benefice which gives the possession, *Pop. fo. 128.*

Pop. fo. 123
 No surrender by an Attorney without deed, but an admittance may be.

A Copy hold cannot be surrendered to another by an Attorney without Deed, but one may be admitted to a Copyhold estate by Attorney without a Deed. For there is a difference betwixt the passing of an estate, and the receiving of an estate passed, *Prac. Regist. tit. surrender. 2. Apr. 1650.*

B. R.

Yet note, in *Co. 9. part. Combes case*, it is affirmed, That a Surrender of a Copy-holder may be given and taken by Attorneys.

what

What shall be said a reasonable Fine for a Copyholder to pay upon his admittance.

Hill. 5. Car. Rot. 125. Dow and others against Golding in Trespas upon a Demurrer, and the question was, whether the Lord of a Mannor may assess two years and a half value of land according to raked Rent for a Fine upon grant of a Copy-hold, and for non-payment entry for forfeiture? And all the Court conceived, That one year and a half of Rent Improved is high enough; and the Defendant assessing two years and a half, it is unreasonable; and therefore the Plaintiff might well refuse the payment thereof, and consequently the entry of the Defendant for a forfeiture not justifiable, *Crook 1 part. fol. 142.*

Crook, 1st part. f. 142

A Copy-holder brought an action of Trespas against his Lord, for an house and an acre of Land. The Defendant pleaded, that he had admitted the Copy-holder, and had assessed a Fine of 20 nobles upon it, and had appoynted him to pay it to his Balliff, at his house being within the Mannor, three months after, and alledged that he had not paid it accordingly: whereupon the Plaintiff demurred, and the opinion of the Court was, That the Lord was not bound to aver, or shew that the Fine assessed was reasonable, but it must come on the Copy-holders side, to shew the circumstance of the case, to make it appear to the Court to be unreasonable, and so to put it upon the Judgment of the Court. For the Fine in law is arbitrary, and is due to the Lord of common right, and it is only in point of excuse to the tenant, if it be unreasonable, which the Court cannot judge, but upon the fact agreed: and the Copy-holder, if he be a defendant, may plead not guilty: and then it shall come in evidence whether the Fine was unreasonable or no. But the opinion of the Court was against the Lord in this case, because he had not laid a demand of his Fine, at the time it grew due, or some time after, of the person of the tenant, as the Lord must do in case of Forfeiture of Copyhold; both for Rent and Fine, *Hob. rep. fo. 135. Denny in Lemman.*

In a copyhold the unreasonableness of the Fine must come on the part of the tenant.

What shall make a Forfeiture of Copy-hold Estates, and what not.

WE now descend to Forfeitures of Copy-hold Estates, both what shall be, and what shall not be forfeited.

First, in a forfeiture of Copy-hold estate by making of a Lease of his Copy-hold land contrary to the custom, there ought to be very direct and certain proof made, of a certain Lease, with a certain beginning and ending of it, and likewise of any other thing supposed to be acted and done by a Copy-holder, and contrary to the custom of the Mannor, thereby to make a forfeiture of his Copy-hold Estate, it must also appear certain to the Court; for if a Stranger shall come and make oath to this purpose, it shall not be of any force or effect to prove a forfeiture, especially if the Copy-holder still continue in possession, and so dies seised of his Copy-hold estate, and never came in question till after his death.

And if such a presentment shall be allowed in the Lords Court upon an Oath made by a stranger, as to make a Copy-hold estate, every Copy-holder might be in danger to lose his Copy-hold estate. Or if a Copy-holder did promise to make a lease, and it is not proved *in facto*, that he did make the same, this is no forfeiture of his Copy-hold Estate.

Or if a Copy holder do make a Lease of his Copy-hold Land, (and so a forfeiture) being granted contrary to the custom of the Mannor, if after this he continues still in possession, and the Lord of the Mannor dies, and afterwards his widow, or he who hath the Mannor, doth receive Rent from the Copy-holder, he shall never, after acceptance of Rent, take any benefit or advantage of the forfeiture. *Bol. strod. first part fol. 50.*

28 H. 8.

Dyer fol.

24. pl. 151.

Plow. fol.

273. b. in

Say and

Fullers

case, & 14

H. 8 f. 14. b.

& Co. 6.

35.

Bulstrod

first part

fol. 50.

If a Lessee for life build a house upon his Land, and afterwards pulls it down again, this is a forfeiture of the Copyhold, *ibid.* fol. 50.

A forfeiture to build and pull down again.

If a Custom be, that a Copy-holder may pull down houses, such a custom is not good; if the custom be for a Copy-holder to cut down trees, in this for the warranting of such a custom, the difference will be this; If he be a Copy-holder of Inheritance, then such a Custom to cut down trees for such a Copy-holder, will be a good custom: but otherwise it is, if he be a Copy-holder for life, there such a custom is not good. *Ibid.* fol. 51.

No good Custom to pull down houses, or to cut down trees, &c.

If a Copy-holder erect a house, and pull it down again, it is a clear forfeiture of his Copyhold Estate. *Ibid.* 52.

Bulstrode first part fol. 51, 52.

By the Law of the Land, every Copy-holder may make a Lease for a year without forfeiture: Yet admit it be a forfeiture, if the Lord make a Surrender, and enters not for the forfeiture, but makes a Lease for years, his Lessee shall not enter for the forfeiture, for the Lessee cannot, when the Lord allows thereof. Yet to the Lease for one year it was answered, that he must have a special custom or else it is not good, unless it be for tryal of a Title, which hath been allowed, because it is for reducing a Rite, and for the Lords benefit.

A Copyholder by the common-law, without special custom, cannot make a lease for one year, but it is a forfeiture.

And to the second it was said, that admitting it is a forfeiture, yet the Lords acceptance of the Surrender not knowing of the Forfeiture is no dispensation therewith, and consequently, that the Lords Lessee hath a good estate and right in him, for which his Entry is lawful, this was approved good by the Court, and the first part over-ruled. *Crook* 1 Rep. fol. 169.

Copy-holder made a lease for one year *Et sic de anno in annum*, during the life of the Copy-holder, (excepting one day at the end of every year for the Copy-holder to enter, and this only for to avoid a forfeiture) but it was clearly resolved. *Mic. 8. Jac. B.R. oit. 602.* that this is a forfeiture of his Copyhold estate: for if a lease be made *de anno in annum*, this must of necessity be a lease for twentie and two years, and so in *Potkins case* in 14 H.8. fol. 14.

Crook first rep. fo. 169. A Lease for one year by a Copyholder, &c. a forfeiture. *Bolst. Rep. first part fol. 215.*

As to the reservation of one day, at the end of every year

Lutterels case, Mich. 8 Jac.B.R. rot.602. to make his lease but for one year, and so to be warrantable by the custom, it will nothing avail him, though he had accepted a month at the end of every year, it would have been to no purpose, for by this invention he had a purpose to cheat and deceive his Lord, but he is deceived himself, *Bolstrod. ports f. 122 1 part. fo. 215. Lutterels case, Mic. 8. Jac. B.R. rot. 602.*

A Copyholder may inclose land formerly inclosed, & dig marl to be laid up on the same land. If a Copy-holder make a Lease for years to commence at Michaelmas; it is a forfeiture presently, *Hetleys rep. f. 122.*

A Copyholder may hedge and inclose, but not where it was never inclosed before, and he may dig for marl without any danger of forfeiture, but he ought to lay the said marl upon the same Copy-hold land, and not upon other Land, Easter, 19 Jac. Winch. rep. fo. 8. But if land be digged to make a Bank, and if more be digged than is necessary, it is waste, if it be not cast down, for the Land might be made barren, *Winch. rep. 41 E 3. West. 82.*

fo. 8. The heir may take the profits before admittance, and make a lease, &c. The heir before admittance may enter and take the profits and make a Lease according to the custom, or bring an action of trespass against him who disturbs him? But if the Lord require his *Fine* or his *Services*, and the heir refuse to do them, this may be a forfeiture of his Copyhold; but until lawful seisin made by the Lord (because it belongeth to him) the heir may intermeddle with the possession, though he be not admitted by the Lord, where it is an estate of inheritance by the custom, *Pophams re fo. 39*

fo. 39. To refuse to pay a Fine certain, is a forfeiture. It is a forfeiture of a Copy-hold for the Copy-holder to refuse to pay his Fine, if it be a *Fine certain*; but if he refuse to pay a *Fine incertain* after it is set, *quers* whether it be a forfeiture or not, for that *Fine* may be unreasonable. See before *Forfeit.* Or if he refuse to appear at his Lords Court, and to do his service there, *Prac. Regist. tit. fo. 10.* Or refuse to appear at his Lords court. yet if the Copy-holder dwell in a Town far distant from the Mannor, a general warning within the Mannor is not sufficient, but there ought to be given to the person notice of the day when the Court shall be holden, &c. For his not coming in such case cannot be called a voluntary refusal: so if a man be of that debility in body, as he cannot travel without danger, so if he have a great office, &c. these are good and strenuous causes of excuse; It was likewise holden, that if a Copy-holder make default at the Court, and be there amerced, although that the amer-

cement

claiment be not estreated, or levied, yet it is a dispensation of the forfeiture. But note, That a general warning within the Parish is sufficient, for if the Tenant himself be not resident upon his Copy-hold but elsewhere, his Farmer may send notice to him of the Court, *Leonards Rep. first Part, fo. 133.* And if a Copyholder be summoned to the Court, by Common Proclamation or express notice, and he does not appear, it is no forfeiture, because it is but a failure of service, and no denial, and for the neglect he may be punished and fined. *Leonards first Part, fol. 133.*

Hetleys rep. fol. 7.

If a man seised of Copy-hold land in the right of his Wife, surrendreth the same to the use of another, and the Husband dyeth, it is no discontinuance to the Wife; but that the Wife may enter, and shall not be put to a *Cui in vita*, nor the Heir to sue a *Cui in vita*, *Co. 4. 23.* And if a Copyholder for life surrendreth to the use of another in Fee it is no forfeiture, for it passeth by surrender to the Lord, and not by Livery, and Copy-hold Estates shall not have such qualities as Estates at Common Law have without special custom. *Co. Rep. 4. 23.*

A woman Copy-holder during her widowhood sowed the land with corn, and before severance of the crop of corn she took a husband: it was adjudged in that case, that the Lord should have the crop, and not the Husband; for although the state of the wife was uncertain, and determined by limitation, and not by condition in fact, or in law; yet because the same determines by the act of the Lessee her self, the Lord shall have the crop. The same Law is, If the woman maketh a Lease for life and the Lessee sows the land, and afterwards the wife taketh a husband, for the Lessee shall not be in a better condition than the Lessor. *Hill. 44. Eliz. in B.R. C. 3. Part, 116. Olands case.*

A woman Copyholder during widowhood sowed corn, and before severance, married, the Lord shall have the crop, and not the husband.

Of

Of the Office and Duty of the Steward.

*Co-Super
Lit. fo. 61.
a.b.*

S*te*ward in the Latine is called *Seneschallus*, and is derived from the French word *Sein*, a house or place, and *Schale*, an Officer or Governour; some say that *Sen* is an ancient word for Justice, so as *Seneschal*, should signifie *Officiarius justitiæ*.

*Fleta l. 2.
cap. 26.*

As to the word *Steward*, it seemeth to be compounded of *Stew* and *ward*, and is a word of many applications: yet always signifies an Officer of chief account within the place of his sway. In this place it signifieth an Officer of Justice, viz. A Keeper of Courts, &c. therefore for the prevention of many inconveniences, it would be no disadvantage to Lords to elect and constitute such as are exercised in the studies of the Provincial Laws of this Commonwealth and the customs of Mannors. *Fleta lib 2. cap. 26.* describes the Office of a *Steward*, and counselleth Lords of Mannors and Liberties to provide (or elect) their *Steward* in these words, *Provideat sibi dominus de seneschallo circumspetto, & fideli, viro provido, & discreto & gratioso, humili, pudico, pacifico & modesto qui in legibus, consuetudinibusque provincie & officio seneschalli se cognoscat, & jura Domini sui in omnibus teneri affectet, &c. cujus officium est curias tenere Maneriorum, & de subtractionibus consuetudinum, servitiorum, reddituum, sectarum ad curiam, mercata, molendina domini, & ad visus Franci-plegiorum, aliarumque libertatum Domino pertinentium inquiret, &c.* By which description it is observed, that he ought to have a double qualification, viz.

1. *Moralibus.*
2. *In Judicialibus.*

1. In *Moralibus*, he must be qualified with these properties, *viz.* Circumspection, Fidelity, Providence, Discretion, &c. which may be reduced to two general heads, to wit, (*Verity and Industry.*)

2. In *Judicialibus*, and therein he must be attended by the property of *Knowledge*, as to be expert in the Laws of the Country, and the Customs of the Mannor, and have ability to instruct and direct the Bailiffs, and other Ministers in dubious things.

Let us now descend to demonstrate his Retainer into Office, &c.

A Lord of a Mannor may by *Parol* retain one to be *Steward* of his Mannor, and to hold the Courts thereof, as well as a Bailiff may be, and that by word, and this Retainer shall be as effectual in all points before discharge as the most effectual Institution by Patent; yet most commonly they have Patents for their Office, *Co. 4. 30.* and therewith accordeth 8 *Elix. Dyer 248.* Likewise it was adjudged in the Common Pleas in the Lady *Julian Holcrofts case*, that whereas one was generally retained by the Lord of a Mannor by *Parol* to be *Steward* of a Mannor, and to keep his Courts, that such *Steward* may make surrender of customary Tenants out of the Court, or make voluntary admittances; or any other act incident to the office of a *Steward*, for till such *Steward* be discharged, he is *Steward* of the Mannor, as well by the Retainer by word as if he had a grant thereof by Patent. *Leon. fol. 309.*

*How he
may be re-
tained.*

*Co. Rep. 4.
30. Dyer 8
Elix. 248.*

*Leon. first
Part, fol.
309.*

He represents the person of the Lord in many things, for in the absence of the Lord he sitteth in Court as Judge to punish offences, to determine controversies, redress injuries, &c. He acts some things in the Lords name, and not in his own name: For if the *Steward* admit any Copy-holder, or by special authority, or by particular custom, licence a Copy-holder to Alien, this admittance and licence shall be made in the Lords name, and the entry in the Roll shall be *Quod dominus per seneschallum admisit, & licentia vit, &c.* *Co. of Copy-holds, fol. 143.*

*Co. 4. of Co-
py-holds, f.
143.*

He

He must take care to record and enrol all the Conveyances of estates ; for it hath been holden by some, That if the Lord in open Court grant a Copy-hold estate and no entry is made thereof in the Court-Rolls, that the grant is invalid, and that no collateral grant will make it valid, *Carthf. 47.* But if the Tenant have no Copy, or lose his Copy, the Roll of the Court is a good evidence : and if the wills be lost, it is thought clearly it may be supplied by proof. *Ibid.*

At every Court he is to swear some of the Tenants (which is called the *Homage*) these he chargeth with the *Articles* before mentioned, and upon them they do present : and upon this presentment, the *Steward* is to proceed as upon the presentment in a *Leet*, save only that (as it is said) the Lord cannot bring an action of debt, but is only to distrain for the Amerciament in this Court, *2 H. 4. 24.* For by the Common Law he hath no authority to assess Amerciaments or Fines in a Court-Baron but the *Suitors*, for they are the *Judges*, and not the *Steward*. *Leonards Reports, first Part, f. 299.*

If the *Steward* take a bribe, or use partiality in any case depending before him, (of which crime many are too culpable) or if by his Patent obliged to keep Court at certain time of the year, and fails thereof, the Lord receiving prejudice thereby, (not otherwise) or if he be by his Patent obliged to keep Court upon demand or request to be made by the Lord, and upon request and demand by the Lord he refuseth ; these and the like cases will make him subject to a forfeiture, *Co. of Copy-holds, fo. 146. &c.*

How he
may forfeit
his office.

Co. 4. Rep. of
Copy-holds,
f. 146. &c.

The Fees of the Court-Baron.

As for the Fees of this Court they must differ, and are by Law what they have been by custom, time out of mind. For some take the same Fees as are taken in the County-Court. And other Courts take the Fees which follow.

The

The Stewards Fees.

F Or entring every Essoyn	00-00-02
Entring every Adion	00-00-02
Every Order entred	00-00-04
Entring a Declaration, if } it be large then more }	00-00-04
Every Proceſs	00-00-04
Entring every Plea or Answer	00-00-04
Every Continuance	00-00-02
Every wager of Law and entry	00-00-02
Warrants for Witneſſes and } ſummoning Juries }	00-00-04
Every Nonſuit and Retraxit	00-00-04
Entring the Judgment	00-00-04
Satisfaction acknowledged	00-00-02
For removing and certifying a Caſe	00-06-08

The Bailiffs Fees.

F Or every Summons and Entrance	00-00-08
For executing every Proceſs.	00-00-04
For every ſhilling upon Judgment	00-00-01
For ſummoning the Jury	00-01-00
For ſummoning of Witneſſes } upon a Warrant }	00-00-04
For every Oath	00-00-02

*If there be Attornys, then their
Fees are.*

F Or every Cauſe if it be heard	00-01-00
For drawing the Declaration	00-00-06
For every Court the Cauſe dependeth } after he is retained }	00-00-06

See more in the Fees of the County-Court.

The

The Oath of the Bayliff of a Mannor.

YOU shall swear that you shall well and truly serve our Sovereign-Lord the King, and the Lord of this Mannor, for the year to come, in the Office of *Bailiff* of the same Mannor, and you shall duly and truly gather, all such rents, revenues, or other yearly profits as shall be extracted out unto you, and therefore you shall make and yield up a true account at the end of the said year, and in every thing you shall well and honestly behave your self in the said Office during the time aforesaid. So help you God, &c.

The Bailiff must be sworn before the Court end.

Dr. Kitchen in his Jurisdiction of Courts, &c. The form and method of Presentments (which are to be drawn by Stewards) I shall not trouble you with, being copiously performed by Mr. Wilkinson in his Office of Sheriffs, fol. 218, 219, 220, &c. only take these subsequents for methods sake.

The finding of the death of a Tenant, and of a Surrender made to the use of his Will, with an Admission of the Tenant.

HOmagium ulterius presentant quod A. B. senior Customar' tenens hujus Manerii, diem clausit extremum post ultimam Curiam. Et quod ipse idem A. B. ante mortem ejus, scilicet decimo die Maij, Anno, &c. sursum reddidit in manum Domini hujus Manerii per manum C. D. Customar, Tenen. ejusdem

jusdem Manerii omnia & singula Customar. terr. tenementa & hereditamenta que tenuit de isto Maner. ad opus & usum testament. & ultim. voluntat. sue. Et nunc ad hanc Cur. ven. E. F. filius maximus natu ejusdem A. B. Et profert hic in Cur. testamentum & ultimam voluntatem predict. A. B. geren. datum, &c. coram G. H. deputat, Comissar. I. A. in & per tot. Archidiaconat. W. probat. tenor. cujus quidem voluntat. quoad Customar. terr. predictas, sequitur in hac verba, scilicet. Item, Do E. filio meo, &c. prout per dict. testamentum & ultimam voluntat. ejusdem A. B. plenius liquet. Et pet. ex gratia Domini admitt. ad omnia & singula premiss. predict. videlicet ad duas pec. Customar. terrarum jacen. in campo vocat. R. continen. per estimation. oct. acr. un. pec. terr. jacen. prox. terr. vocatum D. ex parte Austral. & terr. &c. quas quidem duas pec. terr. pefat. A. B. nuper habuit & accepit sibi & hered. suis ex sursum reddition. S. T. & M. uxoris ejus ad General. Cur. cum leta hic tent. die Jovis xviij die Augusti Anno, &c. plenius liquet, cui quidem E. seisinam inde sibi deliberatur Tenend. sibi & hered. suis sub conditione & modo & forma prout in ultima voluntat. specificatur per Virgam ad voluntat. Domini, per servic. & reddit. 2. s. annuatim & sect. Cur. (salvo jure, &c.) & dat. Domino pro fine, &c. Et fecit fidelitatem, &c.

The finding of the death of a Tenant.

Item dicunt super sacramentum suum, quod A. B. post ultim. Cur. obiit seist. de & in duabus rodas terr. jacen. in quodam Pightel vocat. R. tent. de hoc Maner. per fidelitat. & annual. redd. 4 d. annuatim, & quod E. F. est filius ejus & prox. heres ipsius A. B. & plene etatis, qui nunc inde fecit domino fidelitatem.

*Pains found and set upon Tenants for want of
suit of Court.*

Item dicunt super sacrum suum, quod I.W. & S.I. sunt tenentes per Copiam rotulor. Cur. huius Maner. & debent sect. Cur. & ad hunc diem fecer. default. ideo quilibet eorum in misericordia 6.d.

The like.

ET quod A.B. & C.D. sunt tenentes Dom. Maner. per dimissionem. & debent sectam huic Cur. & nunc ad hunc diem fecer. default. ideo uterque eorum sunt in misericordia prout patet super eorum capitib.

The like.

ET quod E.F. G.H. & I.K. sunt liberi tenentes istius Maner. & debent sect. Cur. Et nunc ad hunc diem inde fecer. default. ideo quilibet eor. sunt in misericordia prout patet super caput 6 d.

*The Presentment of a Surrender made out of the
Court into tenants hands, with the admission of
the Tenant accordingly.*

ET quod L.M. junior extra Cur. post ult. Cur. sursum reddidit in man. Domini istius Maner. per man. N.O. custom. ten. huius Man. in presentia L. M. & P. R. similiter Custom. tenen. huius Maner. omnia terr. & tenementa Custom.

Cust. ejus cum pertin. que tenuit de Maner. isto ad opus & us. S. I. senior hered. & assign. suor. & pet. ex gra. Dom. admitti tenen ad omnia & singula premissa, videlicet ad un. parcel. past. contin. dimid. acr. sive plus sive minus, cum pertin. nuper parcel. un. customar. Tenementi & undec. acrarum terr. vocat. C. Tenement, in C. predict. que predict. L. M. nuper cepit sibi & hered. suis post sursum redditionem fact. per quendam S. T. ad cur. general. cum let. ibid. tent. die Lune proxim. post, &c. plenius liquet. Et admiss. est inde Tenens, & seisin. inde sibi est deliberat. Tenend. sibi, hered. & assign. suis per Virgam, ad voluntatem Domini, secund. consuetud. Maner. &c. per servic. & consuetud. &c. Et red. 6 d per tres ann. salvo jure, &c. Et dat Domino pro fin. &c. Et fecit si inde fidelitatem, &c.

*The finding a Surrender made into Tenants
hands, to the use of a mans Will.*

ET quod A. B. custom. ten. istius Maner. extra cur. post. ult. cur. scilicet xxiv. die Maij ult. preterit. ante Tit. hujus Cur. sursum reddid. in man. Domini hujus Maner. per man. C. D. Custom. tenen. ejusdem Maner. in presentia I. A. & S. A. simil. custom. tenen. predict. Maner. omnia custom. terr. & tenementa sua tent. de Maner. isto ad opus & usum Test. ult. voluntat. ejus.

*The finding of the Death of a Tenant, and of the
Lands, and that the youngest Son is next Heir ac-
cording to the Custom, &c. with his Admissi-
on.*

ET quod W. D. Customar. tenens istius Maner. post ult. cur. obiit, solus seisit. de & in un. tenemento incluf. vocat. L. continen. per estimat. quinque acr. jacen.

in F. quod præd. W. nuper cepit sibi & hæredibus ex sursum redditone J.S. prout ad Cur. hic tent. die Lunæ Martino Sancti Johannis Baptist. anno, &c. patet. Et de & in quinque acr. Customar. terr. cum pertinent. tent. de eodem Maner. voc B. quæ, &c. Et quod W.D. filius junior ejus est prox. hæres ejusd. W. secund. consuetud. hujus Maner. qui nunc ven. & petit ex gratia Dom. admitti ad premissa cum pertinen. secund. consuetudin. Maner. præd. & admissus est inde tenens cui seifina inde ei concess. est per Virgam ad volunrat. Dom. secund. consuetudin. præd. Maner. per servic. & consuet. & redd. pro quinq; acris, &c. ad 4 d. per annum & pro al. quinq; acr. præd. terr. ad redd. 3. per annum, &c. salvo jure, &c. Et dat. Dom. pro fine, &c. Et fecit Dom. fidelitat. &c.

The finding of a Sale made of Free-hold lands, with a distress to the Bailiff to distrain for want of taking it up.

Item dicunt super sacrum suum, quod J.A. post ult. Cur. vendidit R.A. un. tent. voc. T. cum pertin. contin. per æstimation. duas acr. quæ tenuit libere de isto Maner. in libero Socag. per fidelitat. & annual. reddit. 3d. per annum, & fecit. Cur. qui quid. R.A. non ven. &c. ideo præcept. est Ballivo quod distringat præfat. R.A. quod ad prox. Cur. fidelitat. faciat. &c.

The acknowledgment in the Court of a Legacy paid.

ET quod J.B. in plena Curia, cognovit seipsum satisfact. & plenar. solut. per N.B. fratrem suum de le-

legato ejus 19 l. eod. J. B. per testament. & ult. voluntat. patris ejus legat. secund. form. & effect. & ver. intention. dict. testamenti, & ult. voluntatis patris ejus.

A Presentment of a Surrender, made out of Court, with the admission of the Tenant.

Jurat. præsentant super sacrum eor. quod J.S. Customar. ten. hujus Maner. extra Cur. scilicet decimo die Maij, anno, & c. surf. reddidit in manū Dom. hujus Maner. per man. S.N. Customar. tenen. hujus Maner. in præsentia J.G. & G.F. Customar. similiter tenens hujus Maner. omnia terr. & tenement. Customar. cum pertin. quæ de hoc Maner. tenuit ad opus & us. R.K. & hæred. suor. & assignat. imperpet. qui nunc ven. hic in Cur. & per. ex gratia Dom. admitt. ad omnia & singula præmiss. præd. cum pertin. videlicet. ad un. Mess. decass. cum quibusd. terr. in C. contin. per æstimation. vi acr. sive plus sive minus, cum pertin. parcell. duor. Cottag. & sex acr. terr. de tenemento de H. cum pertin. & c. quæ idem J.S. nuper cepit sibi hæredib. & assign. suis ad Cur. tent. pro Maner. præd. post surf. reddition. inde fact. per J.C. prout ad cur. pro Maner. præd. tent. die Jovis xvii die Maij, anno, & c. plenius liquet & apparet. Et admissus est inde Tenens cui seifina est inde concess. habend. sibi, hæred. & assign. suis per Virgam ad voluntat. Dom. secund. consuetud. Maner. præd. per servic. & c. & redd. 2 s. per annū salvo jure, & c. Et dat. Dom. pro fine, & c. Et fecit Dom. fidelitat. & c.

A Presentment made in Court of an agreement made between a Son and his Mother, touching her Dowry, and the Mothers Release of her Dower.

ET postea in Cur. ista ven. predict. N. B. & E. B. vid. relit. ejusdem R. B. & nunc intelligi dant Cur. quod inter seipsos consens. sunt de & pro dote ipsius E. B. in premissis secund. consuetud. Maner. predict. unde predict. E. B. presens hic in Cur. remittit & relaxat in man. Domini predict. omnem Dotem suam & titulum dotis & demand. que eidem E. B. pertinent secundum consuetudinem Maner. de & in omnibus & singulis terr. & tenement. Custom. de Maner. isto tent. que nuper fuer. dict. R. B. quondam viri sui ad opus & usum N. B. (in plena & pacifica possessione sua modo existen.) & hered. & assign. suor. imperpet. ita, (videlicet) quod eadem E. B. abhinc non exigere, clamare & vindicare poterit ullam dotem. de, in, vel ad premiss. vel aliquam inde parcell. secund. consuetudin. Manerij pred. Sed de ea ac de & ab omn. action. & demand. talis dotis de & concern. premiss. per irrotulament. harum presen. imperpet. preclus. & exclus. erit. Et pro hac remissione & relaxatione, pred. N. B. eidem E. B. reddit 210l. legalis monete Anglia, & dedit Domino pro fine, &c. pro relaxatione predict. &c.

Juratores dic. super sacramentum eorum quod T. G. incro-
A pain set chiavit fossat. suo super Com. H. G. versus le milking yard de
for an in- Messuag. suo, Ideo est in misericordia prout patet super caput
croachment ejus.

A pain set Et precept. est ei ad incrochiament. predict. reformand. citra
for the a- Festum Sancti Michaelis Arch. proxim. sequen. sub pen. prout
mending of super caput ejus.
the same,
&c.

AC

Ac etiam dit. quod S. A. forisfecit pen. de 5 s. super ips. The finding ad ult. Cur. imposit. quod ipse post ult. Cur. & post notitiam of a pain sibi in contrar. per Balliv. hujus Maner. dat. permisit porcos suos forfeited. egredi & depascere super Comm. pastur. H. cont. mandat. inde sibi in contrar. dat.

A Presentment of an Offence done, and a Charge to the Jury to enquire, and further day given for their Verdict.

Cum W.L. & G.B. Domini Maner. de R. un. Querc. nup. crescen. ad Occident. part. cujusd. le Pightel vocat. B. Pightel Dominical. terr. hujus Maner. in tenur. F.W. nuper succider. & ad hanc Cur. ad inquirend. per homagiū in onere dat. fuit & illos ad reddend. Verdict. inde de & super premissis, homag. præd. temp. petunt p. verdict. eor. reddend. usq. p. Cur. quia nond. inde advlsat. sunt, & c. Et habent, & c. I.A. tenens Customar. hujus Maner. per. ad finem admitti p. respectu servit. Cur. faciend. & admitt. est p. 4 d.

A Fine desired for resp. of suit to be done.

Cum ad ult. Cur. in onere dat. fuit homag. ad inquirend. & reddend. verdict. eor. de & concernen. succision. un. Querc. nuper ante tunc crescen. ad Occident. part. cujusd. le Pightel voc. B. Pightel dominical. terr. hujus Maner. in tenur. F.W. p. W.S. & G.B. Domini. de Maner. de R. nup. ante temp. illud succis. Et ad Cur. eand. dies ulter. dat. fuit usq. hanc Cur. Jurator. hujus Inquisition. nunc dic. super sacr. u. eor. quod tam per testimonium A.B. un. ten. hujus Maner. ad hoc specialiter jurat. quā de cert. scientia aliquor. homag. nunc jurat. quod præfat. F.W. & omnes illi quor. statum præd. F. D d 3 habet

habet in præd. *Pightel* Customar. à tempore in temp. p spacium sexagint.annor.nunc ult.elaps.quiete & sine cōtradictione, succider. ceper. & asportaver, & gavisi fuer.omnib. boscis à tempore in tempus per spatiū sexagint.annor.super part.viæ crescent. & ad Occident. part. ejusd. *Pightel*: & quod sepes præd. *Pightel*, per omne tempus præd. profit. fuer.& adjecer. eid. Quercui & quod major pars crassitatus Quercus illius extendebat se vers. eand. viam. Et ulterius dic. Quod nunquam fuit aliquod Fossar. ubi præd. quercus crescebat. Et ulterius dic. per Testimoniū ejusd. R. A. quod præd. R. A. olim, habens in occupatione sua le *Pightel* præd. a tempore in tempus per diversos annos. collegit & habuit glandulas Quercus præd. absq; aliqua contradictione.

Ad hanc Cur. ven. J. W. & R. ux. ejus presentes hic in Cur. in propriis personis suis. Et præfat. R. per seneschall. Cur. ejusd. sola ac secreta examinata & cōsentiens surf. reddider. in man. Dom. ejusd. Maner. & remisit. relaxaver. & imperpet. pro se hæredib. & assig. suis quiet. clamaver. ad opus & usum S. N. & hæred. suor. omne jus suū, titul. stat. us. interesse & demand. quecunq; quæ unquā habuer. nunc habent, seu quovismodo in futur. habere poterint, vel illi, seu alter. eor. habere poterit secund. consuetud. ejusd. Maner. de in vel ad septem acr. terr. & unū Messuag. parcell. tenementi voc. S. ac de in & ad duas acr. terrar. Customar. tenementi de W. & c. quæ quid. præmissa præd. S. nuper habuit & cepit & nunc tenet sibi & hered. suis post surf. reddition. inde per J. W. fact. prout ad Cur. ibidē tent. die Mercurii xxi die Martii, anno, & c. plenius ad largum patet ad opus & usum præd. S. N. & hæred. suor. adeo, (videlicet) quod neq; præd. J. W. & R. nec alter. eor. nec hæred. eor. nec hæred. alter. eor. abhinc exigere, clamare vel vindicare poterit ullum statum jus, titulum dotem & demand. inde habend. abhinc omnino præclus. & exclus. est p hanc præsent. surf. reddition. remission. & relaxation. præd. & dat. fin. Domino, & c.

A Surrender of Copy-hold in Court, with the admission of the Tenant accordingly.

AD hanc Cur. ven. A.B. gen. Customar. Tenens hujus Man. & præsens hic in Cur. surf. reddidit in Manus Domini ejusd. Maner. duas acr. & dimid. terr. jacen. in duabus pec. in C. five plus five minus, unde prior pars jacet inter, &c. alt. pec. cont. per æstimat. dimid. acr. & jacet, &c. quæ quid. duæ acr. & dimid. præd. A.B. nuper in Cur. cepit sibi hæredib. & assign. suis post surf. reddition. inde fact. per J.W. prout ad Cur. hic tent. die Vener. xvi die Maii, anno, &c. plenius liquet, ad opus & us. J.W. & R. ux. ejus & hæred. ipsius J.W. qui quid. J.W. & R. præsen. hic in Cur. ex gratia Domini petunt admitti ad præd. duas acr. & dimid. terr. secund. form. & effect. surf. reddition. præd. & inde admissi sunt tenentes, quibus selsin. inde concess. habend. & tenend. præd. J.W. & R. & hæred. ipsius J.W. de Dom. tenend. per Virgam ad voluntat. Dom. secund. consuetudin. Maner. per servic. &c. & redd. 2 s. per annū salvo jure, &c. & dat Dom. pro fine, &c. Et præfat. J.W. fecit Dom. fidelitat. &c.

A Surrender, and Lease made in a Court, with the examination of the wife.

ET postea ad hanc Cur. ven. prædict. J.S. & M. ux. ejus, & hic præsens in Cur. & præd. M. sola & secreta examinata per Seneschall. ejusd. Cur. & consentiens

tiens sursum reddider. remisit. & relaxaver. in man. Domini. Maner. præd. tot. jus, stat. tot. possession. Dor. & demand. illor. præd. & I.S. & M. de, in, & ad omnia & singula premiss. prædict. cum pertin. ad opus & usum prædict. R.K. & hered. & assign. suor. imperpetuum (nunc in plena & ampla possession. existent. ita quod neque præd. I.S. & M. vel aliquis eorum abhinc requirat, clamet & mandet ullum jus, titulum, dotem aut demand. de, in, vel ad premis. aut ullam inde part. aut parcell. sed ab omni actione, jure, titulo, dote aut demand. hac irrotatione excludentur & prædict. I.S. pro remission. & relaxation. prædict. dat Domino pro fine, &c.

*A Surrender of Lands made in Mortgage,
upon condition for the payment of Mo-
ny, with the admission of the Mort-
gagee by her Attorney, and the
Fecalty respited.*

ET immediate post prædict. Cur. prædict. N.B. presens in Cur. sursum reddidit in man. Domini prædict. per man. seneschall. Manerij prædict. un. pec. terræ contin. per estimation. duas ac. terr. arabil. jacen. inter terr. Manerij R. nuper de N.B. de parte occident. una cum viis & servit. eidem spectant. & usitat. que quidem pec. terr. R.B. pater prædict. F. cujus heres ipse est nuper (inter alia) habuit sibi hered. & assign. suis post sursum redditionem inde factam per W.B. & E. uxoris ejus, prout ad Cur. general. cum Let. ibidem tent. die Jovis prox. post, &c. anno, &c. liquet

quet ad opus & usum F.D. un. filiarum N.D. gen. & hered. & assign. ipsius F. sub hac forma & conditione quod si prædict. N.B. hered. execut. & administrat. sui vel aliquis eor. solverent vel solvi fecerint eidem F.D. hered. executor. administrator. & assign. suis, apud Domum Mansional. ejusd. R.B. in H. in Com. Ebor. gen. summ. xx l. bon. &c. in vel super xxvij diem Octobris prox. sequent. post titulum hujus Cur. quod tum sursum redditio prædict. vacua erit & nullus effect. seu virtutis. Et quod tunc etiam licit' erit eidem N.B. hered. & assign. suis re-intrare in dict. pec. terr. & eand. prout in priore stat. suo rursus habere, repossidere & regaudere, præd. sus. reddition. vel aliquo in ead. in contrar. non obstant. Et super hoc præd. F. per Attornat. suum in hac parte admitt. est inde tenens, & seisin. Inde eidem F. hered. & assign. suis sub conditione præd. concess. & modo & forma prædict. per Virgam ad voluntatem Domini, secund. Consuetudin. Manerij præd. per servic. &c. salvo jure, &c. Et dat domino pro fine, &c. Et fidelit. respectuat. quousq; &c.

A Surrender of Lands made presently in

Court.

ET postea eadem Cur. seden. prædict. F.W. presens in Cur. sursum reddidit in man. Domini ejusdem Man. Claus. præd. contin. per estimation. quinque acr. terr. vocat. L. ad opus & usum C.W. fratris ejus, & hered. & assign. ejusd. C. cui quidem C. seisin. inde concess. habend. sibi heredibus & assignat. suis per vergam ad voluntat. Domini secundum consuetudin. ejusdem Maner. per servic. &c. salvo jure, &c. Et dat Domino pro

A surrender made by one to his mother of lands for life, the reversion to the Son to gain and heirs. pro fine, &c. Et fecit inde Dom. fidelitat. Et idē E.W. presens hic in Cur. surf. reddidit in man. Dom. per man. Seneschall. ejusd. Maner. præd. sept. acr. terr. in un. Claus. modo in duas partes separat. cum sepe & fossat. ad opus & us. J.W. vid. matr. ejus, & assign. suor. in forma præd. pro termino vitæ natural. ipsius J.W. cui quid. J.W. & assign. suis seisin. inde concess. est in forma præd. reversion. inde eid. E.W. hæred. & assign. suis spectan. tenend. per Virgā, [&c. ad voluntat. Dom. &c. secund. consuetud. Maner. præd. salvo jure, &c. Et dat Dom. pro fine, &c. Et inde fecit Dom. fidelitat. &c.

A Release of Land in Court.

AD hanc Cur. ven. S.B. & præsens in Cur. surf. reddidit remisit & relaxavit in man. Dom. secund. consuetudin. istius Maner. tot. jus suū, titul. stat. possession. interesse & demand. de & in omnib. ill. parcell. terr. parcell. de Orchard ipsius N. vocat. le old, five further Orchard, p^x adjungen. le Pightel five claus pastur. ipsius S. vocat. le Bean-Close, prout nunc separat. à præd. le Pightel five claus. cum le door stakes possit. super front. fossat. dicti le Old Orchard, ad opus & us. N.B. fratr. ejus (in plena & pacifica possessione existen.) & hæred. & assign. suis imperpet ita, viz. quod nec ipse S. nec hered. sui ab hinc aliquod jus, titul. stat. clameum vel demanda in præd. pec. terr. vindicare exigere, vel clamare poterint. Sed ab omni actione, jur. titul. stat. us. interesse & demand. inde habend. ab hinc omino præclus. & exclusi sint & quilibet eor. in perpet. præclus. & exclus. erit per harū præsent. irrotulation. Et præd. N. pro præd. N. Remission. & relaxatione dat pro fine Dom. &c.

A Lease made by the Lord of parcel of his Lands.

AD hanc Cur. Dom. hic in plen. Cur. ad firm. dimisit I.A. un. Gardin. contin. dimid. Rod. jacens, &c. Et dimid. acr. terr. in F. de terr. Dominical. Maner. Habend. sibi, Executor, & assign. suis pro termino quinq; annor. proxim. sequent. post titul. hujus Cur. solvend. inde annuatim pro quolibet anno duran. termin. præd. 1 d. ad Fest. &c. Et dat p. finē Dom. &c, Et Dom. inde fecit fidelitatem, &c.

*The Admission of the younger Son to Lands
according to Custom,*

AD hanc Cur. ven. E.F. filius jun. & p. hæres I.W. defunct. & pet. ex gratia Dom. admitti tenen. ad un. parcell. terr. continens in longitudine vigint. pertic. & in latitudine tres pedes, & un. pec. terr. Customar. vocat. B. contin. per estimation. tres acras terr. in qua dicta parcell. fossat. nuperrime fact. est. quæ quidem parcell. terr. I.W. Avus præfat. F.W. nuper habuit sibi, hæred. & assign. suis ex sursum redditione J.A. prout ad Cur. pro Maner. prædict. test. xxiv die Maii, anno, &c. liquet ut jus & hæreditat. sua quia prædict. I.W. inde seisin. obijt & prædict. parcell. terr. per & post mortem præfat. I.W. secundum consuetud. Maner. prædict. ad prædict. F.W. patrem prædict. F.W. descendebat. Et à prædict. F.W. patre ejus parcell. prædict. ad præfat. F.W. Juniolem descendebat & inde admissus est tenens cui seisin. Concess. habend. sibi, hæred. & assign. suis per virgam ad voluntat. Domin. secund. consuetud. Man. præd. p. red. 2 d. &c. Et servicia. &c.

con-

Court-Baron.

consuetud. Maner. præd. per red. 2 d. &c. & servic. &c. salvo
jure, &c. Et pro fine dat Domino, &c. Et Dom. fecit fidelitatem,
&c.

*A Licence by a Lord of a Mannor to a Copy-holder to
pull down Houses standing on Copy-hold Lands.*

TO all and singular Surveyors, Bailiffs, and other Officers whatsoever within my Mannor of *Skip: on*, in the County of *Y. I. E.L.* of *B.* send greeting: Whereas I am informed, that *H.G.* hath lately purchased of *T.C.* certain old Houses within my said Mannor being Copy-hold, and that the said *T.C.* hath surrendered the same Houses, to the use of the said *G.H.* and his Heirs, according to the custom of the said Mannor: Now my will and pleasure is, and I do by these presents give and grant unto the said *G.H.* his heirs and assigns full licence and absolute liberty, power and authority to pull down, and to take and carry away the said Houses, and every of them, or any part of them to and for the use of the said *G.H.* and his heirs and assigns from time to time as to him or them or any of them shall seem meet; Any custom or usage whatsoever within the said Mannor (If any such be, or heretofore hath been had or used) to the contrary thereof in any wise notwithstanding: And I will and command you and every of you, that the said *G. H.* and his assigns may quietly have and enjoy the full and whole benefit of my said grant and licence without any denial, let or impediment of you or any of you. In witness whereof, &c.

A Letter of Attorney to surrender a Copy-hold.

BE it known unto all men by these presents, That I *A.B.* one of the customary or Copy-hold Tenants of the Mannor of *H.* in the County of *M.* have made, ordained, constituted, and appointed; and by these presents, do make, ordain, constitute, and appoint, my trusty and wel-beloved friends *C.D.* and *E.F.* two customary or Copy-hold Tenants of the Mannor aforesaid, my lawful Attornies and Attorney jointly and severally for me, and in my name joyntly and severally by lawful ways and means, to surrender into the hands of the Lord or Lords, Lady or Ladies, Farmers, Owners, or Proprietors of the said Mannor of *H.* aforesaid, all the customary or Copy-hold Massuage or Tenement, with the appurtenances, situate, lying and being in *H.* aforesaid, parcel of the customary Lands of the said Mannor: And all my estate, right, title, interest, claim, possession, and demand, of, in, to, and out of every part and parcel thereof, to the use and behoof of *T.W.* his heirs, and assigns for ever; and I the said *A.B.* do here by give and grant unto them, the said *C.D.* and *E.F.* jointly and severally, and to either of them, full power and authority to do, execute, and perform any other lawful act and acts whatsoever, needful or necessary to be done in, for, or about the better effecting of the premises, as fully and amply to all intents and purposes, as I myself might do in person or otherwise, and whatsoever my said Attornies, or either of them, shall joyntly or severally do in the premises, according to the true intent and meaning of these presents; I do hereby allow of, ratifie, and confirm. In witness, &c.

The

The Grant of a Stewardship.

TO all to whom these presents shall come, *A.B.* Knight, sendeth greeting Know ye, That I the said *A.B.* for divers good causes and considerations me thereunto moving, have, for me, my heirs and assigns, given and granted, and by these presents do give and grant unto *John Preston* of *B.* Gent. the Office of chief Steward, and the place and execution of the Stewardship of my Mannor of *Skipton* in *Craven* in the County of *York*. And the holding and keeping of all Courts, Court-Leets, Views of Frank-pledge, and of all other Courts of what kind soever the same be, to the said Mannor belonging or in any wise appertaining. To have, hold, execute, and enjoy the aforesaid Office of chief Steward, and the place and execution of chief Stewardship, and the holding and keeping of all manner of Courts usually held and kept within the same; together with all manner of fees, wages, rewards, profits, advantages, and emoluments, to the said Office of chief Steward or Stewardship of the said Mannor or Lordship belonging or appertaining, or at any time heretofore accustomed and used to be paid, rendred to, or received, by the chief Steward or Stewards there for the time being, for, or by reason of the said Office of chief Steward or Stewards there for the time being, from henceforth, for and during the natural life of him the said *John Preston*, In witness, &c.

THE

T H E

COURT

O F

Pypowders.

The Definition of it, what it is, and why it was Instituted, together with its Jurisdiction.

THis word *Pypowder*, hath its definition from the French words *pied*, i. *pes*, and *puldrenx*, i. *pulverulentus*, or as *Skène de verb. significat. Pede pulverosus*, dusty feet; a Vagabond, Pedler, or Scotch Merchant, who hath no certain dwelling place, and by whom Fairs are usually kept, to whom Justice should be summarily ministred within the flowings and ebbings of the Sea; or as some define it to be *curia parvi ponderis*, and this is to be *pedis pulverizati*, and so the Lord chief Justice *Anderson* did use to define it, for the speed and celerity there used, in the present dispatch of business.

This

This Court of Pypowders is a Court of Record, Instituted and set up for the speedy and sudden dispatch of matters and differences arising in a *Fair* or *Market*, and for the speedy doing of Justice, and in this case of necessity, for the sole benefit of Tradesmen and Merchants, and for the present determination of all doubts and questions there then arising, and that only upon sales and contracts had in the *Fair* and *Market*, during the time thereof, but not for matters acted and done before, or at any time after the *Fair* or *Market* held; but for matters happening and arising in *pleno Mercato*, or in *plena feria*, 8 H.7 fol.4.b.

This Court is of two kinds, *viz.*

1. Either by prescription, and this is an absolute jurisdiction.
2. To be in a *Fair* and *Market*, and to this a Court of Pypowders is incident.

And here two things are requisite, *viz.*

1. This Court is to be for matter arising in the *Fair* or *Market*.
2. The matter to be determined there, within, and during the continuance of the *Fair* and *Market*: and this appears to be so by the Stat. of 17 E.4. cap.2. And 1 R. 3. cap. 6. and this is in a Court of Pypowders annexed unto a *Fair* or *Market*: But in a Court of Pypowders which one hath by Prescription, there they may hear and determine matters done before, *Bolstrod*, 2. Part, fol. 21. *Goodson against Duffil*, Cro. first Part, fol. 33.

Stat. 17. E.
4. c. 2. &
1 R. 3. c. 6.

Bolstrod 2.
Part, f. 21.
Co. 1. Part,
f. 33.

Prescription.

13. E. 4. fol. 8. b.

For in case of Prescription such a Court may well be without a *Fair*, from time to time, and from day to day, 13 E. 4. fol. 8. b. it was so adjudged in point of a Writ of *Error*, where the error assigned to reverse a judgment given in *curia pedis pulverizati*, there alledged to be held *secundum consuetudinem ejusdem civitatis*; the error insisted upon, was, because he shewed not that the matter upon which the action was brought, was in *pleno Mercato*, or in *plena feria*, It is there expressly adjudged, That this was no

Error.

Error, because the same was said to be held *secundum consuetudinem civitatis*; so that such a Court may be held without a Fair or Market, and that the King may well grant such a Court to be held from day to day, and such a Court may well be held by custom without any Fair or Market, and its proper denomination is from the speedy dispatch of business there; so that the jurisdiction of this Court held by prescription may be extended unto all contracts and bonds, to actions of trespass, and actions upon the case, and to this purpose was the case, between *Chambers Plaintiff* against *Pert Defendant*, *Hil. 33 Eliz. Rot. 124.* where an action of trespass for an assault & battery was brought in a court of Pypowders, for an assault done long before, and well maintainable as it was held.

*Hill. 33.
Eliz. Rot.
124.*

But this Court held by prescription doth much differ from the ordinary Court of Pypowders, and that by many circumstances: This may be thus used and held *viz.*

1. Either by way of Grant.
2. By way of Confirmation.

And being thus held, it differs from the ordinary Court of Pypowders, Which is incident to every Fair, as appeareth by 12 H. 7. fol. 16. b. and 13 H. 7. fol. 19. And the same Court is thus incident to a Fair and that of common right, as appears, 13 E. 4. fol. 8. b. *O'd book of Entries*, fol. 168. *Fit. Dette en Gailor placito*, 1. fol. 18. *Fit. account in Execution placito* 3. If one will declare upon a matter in this Court in Fair, there in such a case of necessity he ought to set forth in pleading, that the same was done *in plena feria*, or *in pleno Mercatu*, otherwise nor good. But it is not so in case where a man hath, and holdeth this Court by prescription, in which Court they may hear and determine actions upon the case for words, but not so in an ordinary Court held during the time of the Fair: And by 6 E. 4. fol. 3. b. If a man in his Fair hath this Court, here the Steward is Judge and no other, for there are no Suitors; and for a Judgment given in this Court a Writ of *Faux judgment* lieth not, but a Writ of *Error*, and with this agrees 7 E. 4. fol. 23. And where one claims to hold this Court by prescription, and also by Charter; if the Charter be not contrary to the prescription, this shall be good by way of Confirmation.

*Pypowders
by way of
grant and
confirmat'
12 H. 7. fo.
16. b. 13 H.
7. fo 19.
13 E. 3. fo.
8. b. old
book of En-
tries, 168.
Fit. dette,
en Gailor,
pl. 1. fo. 18
Fit. account
in Executi-
on, pl. 3.
6 E. 4. f. 3. b.
The Steward
is Judge.
7 E. 4. f. 23.*

As a Court-Barron is incident to a Mannor, so a Court

E e

of

This Court of Pypowders is incident to a Fair, and by the Grant of the is incident Fair this doth pass, and with this accords, 19 H. 8. Brooks to a Fair or case fol. 2. placito 7. and Brook, tit. Incidents placito, 34. and nor Market, & to be severed from them, neither by grant nor by reservation, 2 & 3 Phil. and Mar. Dyer fol. 133. pla. 80. Error sur Judgment in Court de Piepowders port, le defendant assigned for passeth. 19. errors, que defendant ne fuit amercy, allowed pur error, car come t soit pur advantage le defendant, uncore concern le Roy & H. 8. Brooks son profit, judgment fuit sur contract fait in le Faire devan, & case. f. 2. pl. nult plaint donques entred, resolved, que ambideux fuerent errors. 7 & Brook Jenkin, fol. 211. cent. 5. casus 48. The Plaintiff in a Court tit. inci- of Pypowder doth count of a contract made in the Fair before, where no plaint was then begun, nor any judgment of Pl. 34. 2. 3. Amerciament of the Defendant then given, and this was Phil. & M. held a good Error in both by all the Justices of both Benches, Dyer fol. Mich. 42 and 43 Eliz. B.R. Co. 10. fol. 73. in the case of the 133. pl. 80. Marshalsea, where Hall brought a Writ of Error against Jones, Co. 18. f. 73 to reverse a Judgment given against him in the Court of Pypowders of the Market in the City of Glocester, for that Hall had published slanderous words of him, (viz.) Mr. Jones and his Clerk have by Colour of his Office, extorted and gotten 300 l. per annum by unlawful means, for many years together, above their ordinary Fees, for proving of Testaments and granting of Administrations, the which judgment was reversed for two Errors, viz.

1. Because words did not concern any matter touching the Market, and therefore the Court had no jurisdiction of it; but if one slander any with Trades, and Merchandizes in the Market, in any thing which concerns his Trade, there an Action for this well lyeth.

2. It appears in the Court, that the words were spoken before the Market, and not during the time of the Market: for as this Court hath no jurisdiction, but in matter concerning the Market, so the same Court hath no jurisdiction, for matters concerning the Market, unless they were acted and done during the time of the Market. Bract. lib. 5. fol. 335. a. De brevi de recto. 1. de diversitate, divisione summonitionis, it is there said, per quindecim dies, ante diem quo comparere debeat summonitio ought to be, Et talis summonitio, dici debeat legitima. Si minus spatium contineat, possit illegitima judicari; nisi

Bract. 15. f. 335. De brevi de recto 1.

Py powder Court.

417

nisi ob causam legitimam, minus tempus statuatur, ut propter personas, qui celerem habere debeant justitiam, sicut sunt Mercatores, quibus exhibetur justitia, Pepoudrons, by the Statute of 17 E. 17 E. 4. c. 2. 4. capite 2.

No Plea
(shall be holden in this Court, unless the Plaintiff or his Attorney do swear that the contract was made during the time of the Fair.

Stat. 1 R. 3.

c. 6.

Note.

And in this Court no Steward, or other Minister, shall hold plea upon an action, at the suit of any person unless the Plaintiff or his Attorney, in presence of the Defendant, do swear that the contract in the Declaration, &c. was had and made, during the time of the Fair, and within the jurisdiction of the Fair (but this Oath so taken) shall not conclude the Defendant for pleading in abatement of the action, and to the jurisdiction of the Court, this by the Statute of 1 R. 3. c. 6. is made perpetual; In this principal Case the Defendant in the Court at Rochester, was condemned in an action of debt for 300 l. upon a Bond and Contract formerly made, and entred into, and for this cause the Judgment was erroneous.

Note, That in this Court the Steward is Judge, because there are no Sutors there, neither can the Steward delegate a Deputy, 6 E. 4. fol. 4. 7 E. 3. fol. 23. The Tryal is by Merchants and Traders in the Fair, and the Judgment against the Defendant shall be *quod amercietur*. 17 E. 4. c. 2. 1 R. 3. c. 6. 6 E. 4. 8. 13 E. 4. 8.

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E c 2

A

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F I N I S.

Divers

Divers Resolutions
Of the COURT of
Kings-Bench
CONCERNING
Inferiour Courts
For keeping of them within their
JUST BOUNDS.

London
ff.

Carew Pearse querit de Thoma
Cor & Johanne Foys in cu-
stod Marr &c. De eo qd ipsi
decimo nono die Jan Anno
regni Dñi Caroli Secundi nunc Regis Anglie
&c. xliiii vi & armis &c. in ipsum Carew apud
Londn pdict videlicet in Parochia Beate Marie
de Arcubus in Warda de Cheape insult fecerunt

& ipsum Carew adt & ibm verberaver vulneraver & male tractaver ceper arrestaver & imprisonaver & ipsid in pzisona ibm p spatium sex diez ex tunc pr^o sequan absq aliqua causa rationabili contra voluntatem ipsius Carew & contra leges & consuetud hujus Regni Anglie custodiver & destiner & alia enormia eidem Carew adtunc & ibid intulerunt contra pacem dicti Domini Regis nunc & ad dampnum ipsius Carew ducentarum libraru & inde producit sectam &c.

Plea.

Et p^odict Thomas Cox p J.S. Attozū suam & p^odict Johannes Boyle p R.A. Attozū suum veniunt & defendunt vim & injuriam quando &c. Et quoad venire vi & armis seu quicquid quod est contra pacem dicti Dñi Regis nunc neqñ vulnerationem p^odict superius fieri suppositam iidem Johannes & Thomas dicunt qd ipsi non sunt inde culpabiles & de hoc ponunt se super patriam Et p^odict Carew Pearse similiter &c. Et quoad residuum transgressionū p^odict superius fieri suppositū iidem Johannes & Thomas dicunt qd p^odict C.P. actionem suam p^odict inde versus eos habere seu manutenere non debet Quia dicunt qd Civitas London est antiqua Civitas in qua quidem Civitate scilicet apud Paroch & Warda p^odict infra eandem Civitatem est & a tempore cujus contrarii memoria hominum non existit fuit talis consuetudo usitata & approbata videlicet qd si aliquis Civis vel forinsecus indebitatus sit alicui Civi & libero homini ejusdem Civitat in aliqua summa denariorum sup computo infra sive extra libertates ejusdem Civitat emergent sive surgen & Civis ille

ille affirmaverit versus personam sic indebitatam
 actionem sive querelam suam debiti in aliqua Curia
 de recordo Domini Regis vel Progenitorum suorum
 infra Civitatem Poict super qua recognoscatur fuerit per
 Seruientem ad Clavam ac ministrum talis Curie pro
 tempore existentem ore tenus quod talis persona sic in-
 debitata nihil habuerit infra libertatem Civitatis
 Poict per quod summoneri poterit nec fuerit inventus
 in eadem. Ac si superinde testatum fuerit Curia in qua
 talis actio sive querela affirmata existit ex parte
 talis querentis in tali actione sive querela quod ali-
 qua alia persona infra eandem Civitatem inventa inde-
 bitata sit tali persone defendens in aliqua denario-
 rum summa ad summam debiti in eadem actione sive querela
 specificat aut aliqua parcelle inde attingens quod
 tunc talis defendens ad petitionem talis querentis vel
 ejus Attorum attachiatur foret per huiusmodi debiti sic
 in manibus talis altius persone existentem essendi
 ad primum Curia dicti Domini Regis in Guilhalda Civitatem
 per coram altero Vicecomite Civitatis per coram quo hu-
 iusmodi actio sive querela affirmari contigerit ex-
 tendens ad respondens tali querenti de & in placito
 in tali querela sive actione sua & tunc si idem ser-
 viens ad clavam ad curiam illam testificaverit quod
 talis defendens per summam illam attachiatur ad re-
 spondens tali querenti de preiudicio in huiusmodi
 actione sive querela specificat huiusmodi defendens ad
 Curiam illam & tres alias Curias ibidem separatim primum ex-
 tunc tenens videlicet ad quatuor huiusmodi Curias
 solemniter exactus non veni sed defalt fecerit in
 eadem actione sive querela ac quod quatuor defalt
 super tale defendens ad quatuor Curias illas in Guilhalda
 Civitatem poict in placito talis querelle sive actione
 recognoscatur

recordat forent post tale attachiament sup talem
 defend fact Et tunc si talis pars querens in p-
 pria psona sua vel p Attozū suum ad illā Cur-
 sive ad aliquam aliam Curiam dicti Dñi Regis
 corā aliquo Ric ejusd Civitat in Guishalda ejusd
 Civitat corā quo hujusmodi actio sive querela af-
 firmat fuerit postea tentam juraverit hujusmodi
 summam p eum petitam fore verū debitum suū
 Et qđ talis defend eidem querenti debitum illud
 detinet tunc dñs querens a toto tempore cūsus
 contrarij memoria hominū non existit p iudiciū
 Curie illi⁹ haberet & habere consuevit executionē
 hujusmodi debiti p talem alia psonam tali defend
 debet & sic in manib⁹ hujusmodi ali⁹ psona at-
 tachiat vel tantum inde quantum attingit ad de-
 bitum p talem aliam psonam in tali villa acōne
 sive querela petitam secundū antiquam & laudabilē
 consuetudinē dicti Civitat London p duos plegios
 ad minus inde inveniend si pars defendens venerit
 infra unum annum & unum diem extunc prim⁹
 sequent & distracionaverit debitum pdict in tali
 querela sive acōne content & quod post hujusmodi
 securitat inventam & execuōn hujusmodi debiti
 in manibus & custodia hujusmodi ali⁹ psona at-
 tachiat & detent habet idem defendens exoneraretur
 de eod debito versus talem querent in tali acōne
 sive querela nominat vel tant inde quant attingit
 ad dictū debit sic attachiat & qđ talis alia psona in
 cui⁹ manib aliqua talis summa sic attachiat fuit
 similiter exoneretur de tanta summa debiti sui
 versus talem defendent quanta dicta summa sic at-
 tachiat & unde executio habita fuit attingit tam-
 diu quam hujusmodi Iudiciū & executio in sua
 robore

roboze pmaneat & effectu p talem defendent vel
tales defendentes minime revocat Ac si aliqua
plona sic indebitata post attachiamen debiti sui ab
altro sibi debet secundum consuetudinem pdict
fact non fecerit quatuor defalt sed in Curia qua
actio sive querela affirmari contigerit ad diem re-
torid attachiamenci illi9 sive ad aliquam trium
Curiar illar pr sequent in exoneratione talis at-
tachiamenci comperuit & manucaptores in eadem
Curia inbenerit qui pro tali plona sic indebitat in
tali placito sive querela manucapf quod talis p-
sona sic indebitat staret rectus in Curia illa in qua
talis actio sive querela affirmari contingit sup tali
placito & querela & defalt ad nullum diem inde sibi
dat faceret usq ad finem talis placiti ac quod si
contingat quod Iudicium versus talem plonam
defendent reddit fozet sup tale placit sive querela
quod tunc talis plona versus quam Iudicium illud
redditum fozet solberet debita dampna & custagia
in tali casu adjudicat sive alit corpus suum in
custodia Custodis pstone talis Cur redderet vel
in defalt inde quod tales manucaptores & quilibet
eorid incurrerent pena executionis pro debitis
missis & custag sic adjudicat versus ipsos de cor-
poribus suis habend & fiend & qd si in tali casu
Iudicium reddit sit versus talem plona sic indebi-
tat ac talis plona non solberet debita dampna mis-
sas & custag sic adjudicat nec reddat se in custodia
Custodis pstone talis Cur in exoneracone manu-
captozid suozid qd tunc & in tali casu executio pro
debitis dampnis missis & custag sic adjudicat fiet
versus tales manucaptores sive aliquo eozid de
corporib terris sive catallis suis infra libertatem
ejusdem

ejusdem Civitatis existentibz que quide consuetu-
 dines & omnes alie consuetudines Civitat illius
 auctoritate Parliamenti Dni Rici nup Regis
 Anglie post Conquestum secundi apud Westmo-
 nasteriū in Com Middlesex anno regni sui septi-
 mo tenet tunc Wajori & Comuniat dict civitat &
 successoribz suis ratificat & confirmat fuerunt Et
 pdict Thomas Cor & Johannes Woyse ulterius
 dicunt qd ante pdict temp quo supponitur trans-
 gressione pdict fieri scilicet vicesimo sexto die
 Decemb anno regni dicti Dni regis nunc vicesi-
 mo tertio ad Parochiam & Wardam pdict quidam
 Franciscus St. Aubyn indebitat fuit pbat Thord
 Cor in quinquagint libris legalis monete Anglie
 sup quodam computo inter eos ante tempus illud
 fact Quibus quide quinquagint libris insolutis
 eristen pdict Thomas Cor postea & ante pdict
 tempus quo supponitur transgression pdict fieri
 scilicet pdict vicesimo sexto die Decembre anno
 regni Dni Regis nunc vicesimo tertio venit in
 ppria psona sua in Cur dicti Dni Regis tunc
 tenet cora Jonathan Davis milit tunc uno Wice-
 com Civitat pdict in computacio suo sciunt in
 Parochia sancti Michis in Woodstreet in Warda
 de Criplegat London secundu consuetudine per
 totum tempus pdict infra eandem Civitat usitat
 & ad tunc & ibm secundum consuetudine pdict af-
 firmabit quanda querela sua sclus quenda Fran-
 ciscu St. Aubyn in placito debiti sup demand pdict
 quinquagint librar & supinde pdict Thomas Cor
 ad tunc & ibm in eadem Curia Civitat pdict se-
 cundu consuetudine ejusde Civitat a tempore cu-
 jus contrar memoria hominu non existit usitat &
 approbat

approbat invenit plegios de psequens querelant
 suam p̄dict videat Johanne Denn & Ricard Fenn
 & supinde p̄dict Thomas Cor adunc & ibm petiit
 p̄cessum sibi fieri in & sup querela sua p̄dict plus
 p̄fat Franciscus St. Aubyn secundum consuetudinem
 Civitatis p̄dict a toto tempore sup̄dict usitat &
 approbat sup quo ad tunc & ibm secundum consue-
 tudinem Civitatis p̄dict a toto tempore sup̄dict usitat
 & approbat ad petitionem p̄dict Thome Cor p̄ceptum
 fuit p̄ p̄fat Jonathan Dawes adunc unum Vice
 Civitatis p̄dict in eadem Cur p̄dict cuida Thome
 Twelves adunc uni servienti ad clava ejusdem
 Vicecom ac ministr Cur illius q̄ ipse secundum
 consuetudinem Civitatis p̄dict a toto tempore sup̄dict
 usitat & approbat summoniret p̄fat Franciscum St.
 Aubyn essens ad pr Cur dicti Dñi Regis nunc
 coram p̄fat Jonathan Dawes adunc uno Vice Civi-
 tat p̄dict in Guilhald Civitatis p̄dict scituat in Pa-
 rochia Sct Michis in Woodstreet in Warda
 de Criplegate London dicto vicesimo sexto die
 Decembris anno vicesimo sup̄dicto tenens ad respon-
 dend p̄fat Thome Cor in p̄lito querele sue p̄dict
 secundum consuetudinem Civitatis p̄dict a toto
 tempore sup̄dict usitat & approbat Ad quem quis
 pr Cur dicti Dñi Regis nunc coram p̄fat Jonathan
 Dawes uno Vicecom Civitatis p̄dict in p̄dict Com-
 putatorio suo sup̄dict vicesimo sexto die Decembris
 anno vicesimo tertio sup̄dict secundum consuetudinem
 Civitatis p̄dict a toto tempore sup̄dicto & approbat
 tenet p̄dict Thomas Twelves adunc unus servi-
 ens ad clava ac minister Cur p̄dict recognovit &
 certificavit eid Cur q̄ p̄dict Franciscus St. Aubyn
 nihil habuit infra libertat Civitatis p̄dict p̄ quod

aut ubi summoniri poterit secundum consuetudinem
 Civitatis predicte nec fuit inventum infra libras Civitatis
 predicte super quo postea scilicet ad tunc scilicet ad istam
 eandem Curiam dicti Domini Regis nunc coram prefato Jo-
 nathan Dawes uno vicecomitem Civitatis predicte in
 computatorio suo predictum secundum consuetudinem Ci-
 vitatis predicte predictum Thomas Cox testificabit et certi-
 ficabit eidem Curie coram prefato Jonathan Dawes uno
 vicecomitem Civitatis predicte quod quidam Edwardus Pele
 ad tunc indebitum fuit prefato Francisco St. Aubyn in
 viginti et quinque libris legalis monete Anglie ut de
 vero et iusto debito et eandem denarium summam in
 pecuniis numerata ad tunc habuit in manibus et
 custodiam ipsius Edwardi Pele infra libras ejusdem Ci-
 vitatis et ad et ibidem petiit ab eadem Curia quod per Franciscum
 St. Aubyn per predictam viginti et quinque libras in manibus et
 custodiam per Edwardum Pele existentem secundum consue-
 tudinem Civitatis predicte a toto tempore supradicto usitatum et
 approbatum attachiaret ad respondendum prefato Thome
 Cox in plito querelle sue per Ideo ad petitionem per
 Thome Cox ad et ibidem ad istam eandem Curiam dicti
 Domini Regis nunc coram prefato Jonathan Dawes uno
 vicecomitem Civitatis predicte in predicto computatorio suo
 predictum vicesimo sexto die Decembris anno vicesimo
 tertio supradicto secundum consuetudinem Civitatis predicte
 tenet preceptum fuit per prefatum Jonathan Dawes unum vic-
 ecomitem Civitatis predicte prefatum Johi Woyse uni servientem ad cla-
 ram ejusdem vice ac ministrum Curie predicte quod ipse
 secundum consuetudinem Civitatis predicte a toto tempore
 supradicto usitatum et approbatum attachiaret predictum Franciscum
 St. Aubyn per predictam viginti et quinque libras in pecu-
 niis numeratis in manibus et custodiam prefati Edwardi
 Pele existentem et eandem viginti et quinque libras in
 manibus

manib⁹ & custod⁹ ipsius Edwardi Rele secund⁹ consuetudine Civitat⁹ p̄dict⁹ a toto tempore sup̄dicto usitat⁹ & appbat⁹ defenderet ita quod p̄dict⁹ Franciscus Sr. Aubyn esset ad p̄r' Cur' dicti Dñi Regis nunc coram p̄fat⁹ Jonathān Dawes uno vic⁹ Civitat⁹ p̄dict⁹ in Guilhald⁹ Civitat⁹ p̄dict⁹ secund⁹ consuetudine Civitat⁹ p̄dict⁹ toto tempore sup̄dicto tenend⁹ ad respondend⁹ p̄fat⁹ Thome Cox in p̄lito querela sue p̄dict⁹ secundum consuetudinem Civitat⁹ p̄dict⁹ a toto tempore sup̄dicto usitat⁹ & appbat⁹ Ante quam quidem p̄r' Cur' scilicet ad eandem Cur' Dñi Regis Civitat⁹ p̄dict⁹ coram p̄fat⁹ Jonathān Dawes tunc uno Vicecom⁹ Civitat⁹ p̄dict⁹ apud Guilhald⁹ p̄dict⁹ ut p̄fert tenet p̄dict⁹ Franciscus secundum consuetudine p̄dict⁹ in eadem Cur' sup̄ attachiament⁹ p̄dict⁹ modo & forma p̄dict⁹ servit⁹ & execut⁹ in exoneracōne p̄dict⁹ viginti quinq⁹ lib⁹ modo & forma p̄dict⁹ attachiat⁹ comperuit & in custod⁹ p̄dict⁹ Jonathān Dawes custodis p̄liti⁹ Cur' ill⁹ captus fuit & sup̄inde in ista eadem Cur' p̄dict⁹ Franciscus Sr. Aubyn secund⁹ consuetudinē p̄dict⁹ in p̄lito & querela p̄dict⁹ manucaptores in eadem Cur' invenit scilicet Johem Tremain Gen⁹ p̄dict⁹ Carew Pearle & Ben⁹ Woodnot qui p̄ seipso in eadem Cur' secund⁹ consuetudinē p̄dict⁹ manucepunt qđ p̄dict⁹ Franciscus Sr. Aubyn stare rect⁹ in Cur' illa sup̄ p̄lito & querela p̄dict⁹ & default ad nullū diē inde faceret nec se retraheret usq⁹ ad finē p̄liti p̄dict⁹ ac si contingeret qđ Judiciū sup̄inde solus p̄dict⁹ Francisc⁹ reddidit⁹ foret qđ p̄dict⁹ Francisc⁹ solberet debitu⁹ dampna missas & custag⁹ solus ipse⁹ adjudicat⁹ seu alit⁹ corpus suum in custod⁹ custodis p̄liti⁹ Cur' ill⁹ redderet vel in default inde

A Rule to keep Inferior Courts

ipsi p̄dict Joh̄n Tremaine Carew Pearle & Benjamin Woodnott incurrerent & quilibet eorū incurreret pena executionis p̄ debīt dampnū missis & custagiā sic s̄l̄ p̄dict Franciscus adjudicat s̄l̄ ipsos de corporibz suis habendū & fiendū Et sup̄inde ipse p̄dict Franciscus in ead̄ Cur̄ in p̄lito & querela p̄dict ponit loco suo Longworth Crosse Attozū suū p̄ ipso p̄dict Francisco secundū consuetudinē Civitat̄ p̄dict & adt̄ & ibm p̄ eandē Cur̄ traditur in balliū p̄ manucaptores p̄dict Et isdem Thomas Cox & Johannes Boyle ult̄i⁹ dicunt qđ postea scribit ad Cur̄ dñi Dñi Regis nunc coram p̄fat Vicecom̄ decimo septimo die Januarij anno sup̄dicto apud Guillelmo ejusdē Civitat̄ tenet usq̄ quam quidē Cur̄ continuat fuer̄ p̄cessus inter ipsū p̄dict Franc̄m & p̄dict Thom̄ Cox in querela & p̄lito p̄dict p̄ Attozū suos p̄dict talit̄ p̄cessum fuit qđ adunc & ibm considerat fuit p̄ eandē Cur̄ secundū consuetudinē Civitat̄ p̄dict qđ idem Thomas Cox recuperaret versus p̄dict Franc̄m St. Aubyn p̄dict debīt quinquagint lib̄ neron octo solid̄ & sex denar̄ p̄ missis & custagiā que sustinuit occasione detentionis debīt ill̄ quam p̄ missis & custagis suis p̄ ipsū circa sedā suā in ea parte appositis p̄ eandē Cur̄ adjudicat Et p̄dict Thomas Cox & Jōhes Boyle ulterius dicunt qđ p̄dict Franc̄ debīt & dampnū p̄dict p̄fat Thom̄ Cox nondum satisfecit sed se ab executione Judicij p̄dict retraxit & corpus suū in custodia custodis p̄rison̄ Cur̄ p̄dict non reddidit & sup̄inde secundū consuetudinē Civitat̄ p̄dict a toto tempore cusus contrar̄ memoriā hominū non exiit postea scribit decimo octavo die Januarij anno regni dñi Dñi Regis nunc vicesimū tertio apud London

London p̄dict in Parochia S̄ci Mich̄is in Wood-
stræt p̄dict p̄cept fuit p̄ Cur̄ d̄ci D̄ni Regis
computator̄ p̄dict secundum consuetudinem p̄dict
Civit̄at̄ adtunc & ibm corā Wicecom̄ p̄dict tent
eide Johanni Woyle tunc adhuc uni servient ad
clavam p̄dict Wicecom̄ & ministr̄ Cur̄ p̄dict quod
caperet p̄dict Carew Pearle si inventus foret infra
librat̄ Civit̄at̄ p̄dict & eum salvo custodiret ita qđ
habere potuisset corpus ejus ad p̄r' Cur̄ d̄ci D̄ni
Regis corā Wicecom̄ p̄dict secundū consuetudinē
p̄dict vicesimo octavo die Januar̄ p̄dict tenend̄ ad
satisfaciend̄ p̄fat̄ Thorm̄ Cox de debīt & dampn̄
p̄o virtute ejus quide p̄cept̄ postea scit̄ d̄co tēpore
quo &c. idem Johes Woyle tunc unus servient ad
Clavam p̄fat̄ Wicecom̄ & ministr̄ Cur̄ p̄dict ex-
istend̄ ac p̄dict Thorm̄ Cox in assistantia ejusdem
Johis Woyle ac ad monstrand̄ p̄dict Carew Pearle
p̄dict Johi qui adtunc ipsū non cognoscebat ipsū
Carew Pearle apud London̄ in Paroch̄ & Warda
p̄dict ac infra libertatē Civit̄at̄ p̄dict & Jurisdic-
on̄ Cur̄ p̄dict in narratione p̄dict mentionat̄ p̄
corpus suū ceperunt & arrestaver̄ & in p̄risona
Computator̄is p̄fat̄ Wic̄ delibaver̄ put̄ eis bene-
licuit & ipse idem Carew in P̄risona ibm p̄ spatid̄
sex dierum ex causa p̄dict detent̄ fuit que quidem
captio & arrestatio & in P̄risona ipsius Carew in
forma p̄dict & ex casua p̄dict fact̄ sunt idem resis̄
transgr̄ p̄dict unde p̄dict Carew superius se modo
queritur Et hoc parat̄ sunt verificare unde
petunt Judicium si p̄dict Carew actionē suam
p̄dict inde versus eos habere seu manutenere
debeat &c.

Replication

Et p̄dict Carew Pearse dīc qđ ipse p̄ aliqua p̄
 p̄fat Thord Cor & Johem Woyle superius p̄li-
 tando allegat ab accone sua p̄b. inde s̄lus eos ha-
 bend p̄cludi non debet quia dicit qđ bene & verid
 est qđ p̄dict Thomas Cor p̄dict vicesimo sexto die
 Decembr̄ anno Regni dēi Dñi Regis nunc vicesi-
 mo tertio sup̄dicto in p̄dict Cur̄ dicit Dñi Regis
 nunc tent̄ corā p̄fat Jonathan Dawes mil̄ tunc
 uno Vice Civit̄ p̄dict in Cōputatorio suo scituat in
 Parochia S̄ci Michis in Woodstreet in Warda
 de Criplegate London affirmavit querelam suā
 p̄dict versus p̄dict Franciscū St. Aubyn in p̄lito
 debui sup̄ demand̄ quinquagint̄ libr̄ qđq; ad p̄dict
 Cur̄ dicit Dñi Regis Civitat̄ p̄dict corā p̄fat Jo-
 nathan Dawes tunc uno Vicecom̄ Civitat̄ p̄dict
 ad Guilhald̄ p̄dict Franciscus St. Aubyn in eadē
 Cur̄ sup̄ attachiamēt p̄dict modo & forma p̄dict
 servit̄ & execut̄ in exoneratione p̄dict vigin̄ti &
 quinq; libr̄ modo & forma p̄dict attachiat compe-
 ruit & in Custodia p̄dict Jonathan Dawes Custod̄
 Prisonē Cur̄ illius captus fuit & sup̄inde in eadē
 Cur̄ ipse p̄dict Franciscus St. Aubyn in p̄dict
 p̄lito & querela p̄dict manucaptores in eadem Cur̄
 invenit scilicet p̄b. Johem Tremain Carew Pearse
 & Benjaminū Woodnott & sup̄inde p̄dict Francis-
 cus St. Aubyn in eadem Cur̄ adiunc̄ & ibm̄ p̄
 eandem Cur̄ tradebatur in balliū p̄ manucap-
 tores p̄dict p̄t p̄dict Thord Cor & Johes Woyle
 sup̄ius p̄litando allegaver̄ sed idē Carew Pearse
 ulterius dīc qđ post affirmacōnē querele p̄dict &
 compenciā ipsi⁹ Fran̄ci St. Aubyn necon post tra-
 diōnē in balliū p̄ manucaptores p̄dict in Cur̄
 p̄dict

p̄dict corā p̄fat Jonathan Dawes uno Vic Civitat
 p̄dict tēte scilicet duodecimo die Januarij anno
 regni dñi Regis nunc vicesimo tertio sup̄st
 in eadem Cur corā p̄dict Jonathan Dawes uno
 Vicecom Civitat p̄dict in Guilhals Civitat p̄
 idem Thom Cor sup querela sua p̄dict narrabit
 versus eundem Francū St. Aubyn de ea qđ p̄dict
 Franciscus vicesimo quinto die Decembr̄ anno
 regni dñi Regis nunc vicesimo tertio sup̄
 dido in Parochia S̄cē Hellene p̄ diversis denari-
 orum summis p̄ ipsum Francū eidem Thome
 Cor prius debet concessit solvere p̄fat Thome p̄dict
 quinquagint lib̄ cum inde requisit fuisset p̄dict
 tamen Franciscus licet sepius requisit &c. p̄dict
 quinquagint lib̄ aut aliquid inde denar p̄fat
 Thome nondum solvisset sed ill ei solvere usqz
 tunc contradixisset & ad tunc contradixit ad dampnū
 ipsius Thome vigint lib̄ & inde tunc p̄duxit secū
 &c. ubi revera & de facto causa Accō ill in que-
 rela & narratione p̄dict mentionat emergebat &
 accrebit eidem Thome Cor extra p̄dict Civitat
 London & extra iurisdicōnem Cur illius vide te
 apud Paroch S̄ci Clemen Dacor in Cond Mid-
 dleser & non infra p̄dict Civitat London & iuris-
 dicōnem Cur illius ac ubi revera idem Franciscus
 nichil tenuit de eodem Vicecom nec infra Fran-
 ches nec iurisdicōnem Cur ill ac ubi revera idem
 Jonathan D. Iudex Cur p̄dict nulla habuit pote-
 statem tenendi placitum p̄dict nec audiend & deter-
 minand causā p̄dict sic extra iurisdicōnem Cur p̄
 emergend & accrescend p̄ legem terre huius regni
 Anglie nec p̄ tras Patē dñi Regis nunc nec
 alicujus Progenitorum suorum nup Regum vel

Reginaz Angl nec p aliqua legitim pſcriptione
 de tēpore cujus contrat memor homin nō exiſtit u-
 ſitat & appbat Et p̄ Carew Pearſe ulterius dicit
 qđ ipſe idē Franciſc St. Aubyn in eadē Cur eodē
 duodecimo die Januarij anno viceſimo tertio ſup
 dicto abſq; aliqua licentia interloquendi in ppria
 perſona ſua veniebat & placitab ad Jurisdicōem
 Cur p̄dict quod cauſa acōnis p̄dict accrebit eidē
 Thome Cox extra Jurisdictionem ejuſdem Cur
 videlicet apud Paroch S̄ci Clementis Dacorū
 in Com Middleſex' extra Jurisdictionem ejuſdem
 Cur & traverſebat quod cauſa actionis p̄dict accre-
 vit eidem Thome Cox infra jurisdicōem ejuſdem
 Cur Et hoc adtunc & ibm paratus fuit veriſi-
 care unde idem Franciſcus petijt Judicium ſi eadē
 Cur ibm placitū p̄dict ulterius cognoscere volu-
 iſſet aut debuifſet Et idē Franciſcus adtunc & ibm
 in eadē Cur in ppria pſona ſua obtulit ad veritatē
 placiti ſui p̄dict ſup corporale Sacramentum ſuū
 in eadem Cur ſup ſacroſanct Dei Evangel' pre-
 ſtand affirmand & pferend idem tamen Jonathan
 Dawes mil unus Vic Civitat p̄dict ejuſq; de-
 putat Jdex Cur illius p̄litum p̄dict & allegacōem
 illā admittiere ſeu recipere penitus recuſabit &
 Judicium in eadem Cur verſus Franciſcum St.
 Aubyn p eodem Thoma in Actione p̄dict adtunc
 & ibm de ſacto reddidit & intrari cauſabit p deſalt
 quaſi p̄dict Franciſcus nichil in contrarium inde
 diriſſet ſeu p̄litafſet Et ſuperinde poſtea ſciſt
 p̄dict decimo nono die Januarij Anno viceſimo ter-
 tio ſupdicto apud London p̄dict in Paroch &
 Warda p̄dict Idē Carew Pearſe p p̄dict Johem
 Royle & Thom Cox cap̄ & arreſtat fuit & in pri-
 ſona

sona in executione p debito & dampnis pdict detent
fuit de injuria ipsius Johis Boyse ppr sub coloꝛe
pcessus extra cand Cur emanand ex causa pdict put
idem Carew supius se modo queritur ubi rebera
totus pcessus in eadem Curia post recusatione pti
ti pdict penitus vacuus fuit & coꝛa non Judice
Et hoc parat est verificare unde pet Judicium &
dampna sua ocçione transgressionis pdict sibi ad
judicari &c.

Dawes Vicecomes.

Inter Thome Cor quer & Franciscum St. Aubyn
Defendent in plico debi.

Et pdict Franciscus St. Aubyn in ppria plona
sua venit & dicit quod Curia Dñi Regis nunc hic
cognitione placiti pdict habere non debet Quia
dicit quod causa Actionis pdict accrevit eidem
Thome Cor extra Jurisdictione hujus Curie scilt
apud Paroch Sancti Clementis Dacoꝛum in Cõi
tatu Midd Ablqz hoc quod causa Actionis pdict ac
crevit eidem Thome Cor infra Jurisdictione hujus
Curie put p narratione pdict supius supponitur
Et hoc patus est verificare unde petit Judicium
Si Curia Dñi Regis hic placitum pdict ulterius
cognoscere velit aut debeat &c.

Cest Plea fuit plead al Action sur concessit
solbere in le Court del Vicount in London &
tender sur serement devant Imparlance quel plea
fuit disallow p le Judge del dit Court & Judg
ment entra pur le Plaintiffe p default & puis
le

le Defens moue le Court del Bank le Roy pur
Prohibition Et a luy fuit grant le Suggestion
ensue.

Angl.

Coke
2 Instit.
fol. 229.
Registr.
orig. 98.

¶ **M**emozandum quod die Martis prime
post Octabas Sancti Hillarij isto
eodem Termino coram Dno Rege apud Westmo-
nasterium venit Franciscus Sr. Aubyn in ppria
plona sua & dat Curie Dni Regis hic intelligi &
informari quod cum p Statut in Parlamento
Dni Edwardi primi nup Regis Anglie apud
Westm in Comitatu Midd vicesimo quinto die
Aprilis Anno regni sui tertio tenet edit (inter alia)
inactitat & stabilit existit Auctoritate ejusdem Par-
liamenti de Magnatibus & eor Wallivis & alijs
(except Ministris Regis quibus ad hoc faciend
specialis Auctoritas data foret) qui querimonia
aliquorum vel auctoritate sua ppria attachiarent
alios cum bonis suis p eorum potestat transeuntes
ad respondend coram eis de contractibus conventi-
onibus vel transgressionibus extra eorum potestat
& Jurisdiction fact ubi nihil tenuerunt de eis nec
infra Franchestros ubi eorum potestas foret in pre-
judicium Dni Regis & Corone sue & ad dampnnd
populi pbisum sit quod nullus deinceps ita faceret
Et si aliquis ita faceret redderet ei qui ea occasione
attachiat foret dampna sua duplicata & esset in
gravi Misericordia Dni Regis put p Statut pdict
(inter alia) plenius liquet & apparet Quidam tamen
Thom Cor premissoz non ignarus sed machinans
& intendens ipsud Franciscum Sr. Aubyn contra
formam Statuti pdict minus rite & indebit pgravare
opprimere & defatigare in Curia dicti Dni Regis
nunc

nunc de Recordo tenta corā Jonathan Dawes
 Milite Aldermano uno Vicecomit Civitat Lon-
 don in Computatorio suo scituat in Paroch San-
 cti Michis in Woodstreet in Warda de Cripplegate
 trahere que extra Jurisdiction ejusd Curie emer-
 gebat & accrevit Pecnon legi comuni hufus Rñi
 Anglie cuilibet subdito de Jure debite derogare &
 ostbare debet juris cursu subvertere & exitus & p-
 ficua que ad Dñum Regē nunc inde contingere
 possint & ad Corōn sua Regia specialiter spectant
 & ptinent diminuerē in dicta Curia dicti Dñi
 Regis nunc de Recordo ibide tenta die Martis vi-
 cesimo sexto die Decemb Anno regni Dñi Caroli
 Secundi nunc Regis Anglie &c. vicesimo tertio
 corā pfato Jonathan Dawes Milite Aldermano
 uno Vicecomit Civitat pdict secund consuetudin
 Civitat pdict a tempore cufus contrarij memoria
 homin non existit usitat & appbat levabit quanda
 querela sua Glus pdict Franciscu St. Aubyn in
 placito pdict sup demand quinquaginta librarum
 Et ipsu Franciscu St. Aubyn pteru querele
 pdict in forma pdict levate & affirmate p Minist-
 suu Curie pdict p bona & catalla ipsius Francis-
 ci p Jurisdictione Curie pdict transeuntia adunc &
 ibide attachiari fecisset & pcurasset ipsumqz Fran-
 ciscu in eade Curia compere & pfato Thome
 Cox de & in pmissis respondere minus juste as-
 trinxit Ac supinde postea in eadem Curia tenta
 duodecimo die Januarij Anno regni dicti Dñi Re-
 gis nunc vicesimo tertio corā pfato Jonathan
 Dawes Aldermano uno Vicecomit Civitat pdict
 in Guithalda Civitat pdict ide Thomas sup que-
 rela sua pdict narravit versus eunde Franciscum

eo quod p̄dict Franciscus vicesimo quinto die Decemb Anno Dñi Regis nunc vicesimo tertio in Paroch sc̄e Helene London p̄ diversis denarioꝝ sumis p̄ ipsum Franciscum eidem Thome prius debitis concessisset solvere p̄fato Thome p̄dict quinquaginta libras cum inde requisitus fuisset p̄dict tamen Franciscus licet sepius requisitus &c. p̄ quinquaginta lib aut aliquē inde denariū p̄fato Thome adiunct non solvisset sed illas ei solvere usq; tunc contradixisset & adhuc contradixit ad dampnū ipsius Thome viginti librarū ut dixit Et inde p̄durit secta &c. Ubi revera & de facto p̄dict causa Actionis illius in querela & narratione p̄dicta sup̄ius mentionat̄ emergebat & accrebit eidem Thome Cor extra p̄dict Civitat̄ London & extra Jurisdiction̄ Curie illius sc̄it apud Parochiā sc̄i Clementis Dacozū in Comitatu Midd & non infra p̄dict Civitat̄ London & Jurisdiction̄ Cur̄ illius Ac ubi revera idem Franciscus nichil tenuit de illa nec infra Franchesi nec Jurisdictionem Curie illius Ac ubi revera idem Jonathan Dawes Iudex Curie p̄dict nunquā habuit potestāt tenendi placit̄ p̄dict nec audiendū & determinandū placit̄ p̄dict sic extra Jurisdiction̄ Curie p̄dict sic ut p̄fert emergent̄ & accrescent̄ p̄ legem terre huius regni Anglie nec virtute Literarū Patentiū Dñi Regis nunc nec alicujus p̄genitoꝝ suozū nup̄ Regum vel Reginarū Angl̄ nec p̄ aliqua legitimā p̄scriptionē a tēpoꝝe cūsus contrariis memoria hominū nō existit usitat̄ & appbat̄ Ac licet ipse idem Franc⁹ in eadem Curia absq; aliqua licentiā interloquendi in p̄pria p̄sona sua placitabit ad Jurisdiction̄ ejusd̄ Curie quod causa actionis accrebit eidem Thome
extra

extra Jurisdictionem ejusdem Curie & traverſabit quod
 causa Actionis predictae accrevit infra Jurisdictionem
 ejusdem Curie Ac omnia & ſingula per ipsam ſuperius
 ſuggeſta & allegata in ejus exonerationem in predicta
 Curia dicti Domini Regis nunc tenta coram prefato Jo-
 nathan Dawes duodecimo die Januarii Anno
 regni dicti Domini Regis nunc vicesimo tertio apud
 Guilhalm Civitatem prefatam in Parochia Sancti Lau-
 rentii in veteri Judaismo in Warda de Cheape in
 propria persona sua placitaverit allegaverit Ac illa per
 Sacramentum suum verificare & inevitabili veritate
 & testimonio phare sepius obtulerit predictam tamen
 Jonath Dawes Aldermanus unus Vicecomes Civi-
 tatis predictae ejusque Deputatus Iudex Curie illius
 prefatam predictam & allegationem illam admittere seu recipere
 penitus recusavit & Iudicium in eadem Curia solum
 ipsam Franciscum per eodem Thoma in Actione predicta
 adtunc & ibidem reddidit & intrari de Recordo causa-
 vit per defectum tanquam predictum Franciscum nichil dix-
 iſſet in barra sive pclusionem Actionis ipsius Thome
 predicti in Curia predicta in dicti Domini Regis nunc con-
 temptum & ipsius Francisci dampnum prejudicium & gra-
 vamen non modicum contra legem terre huius regni
 Anglie & contra formam Statuti predicti Et hoc par-
 est verificare unde idem Franciscus Auxilium & mu-
 nificentiam Curie dicti Domini Regis nunc humilime
 implozando petit sibi remedium festinum & bene dicti
 Domini Regis nunc de Prohibitione predicti Jonathan
 Dawes ejusque in hac parte Deputato Iudici Curie
 predictae ac cuilibet alio Iudici in hac parte competenti
 cuicunque necnon prefato Thome Cor Consiliariis
 Attornatis & Sollicitatoribus suis in hac parte qui-
 buscunque dirigendum ipsos & eorum quemlibet ne ipsi
 seu eorum aliquis in causa predicta premissa predicta quo-
 vis modo tangente in Curia predicta coram prefato Jo-
 nathan

nathan Dawes Iudice Curie p̄dict vel aliquo eorū
 ulterius p̄cedere p̄sumant ne quicquid amplius in
 ea pte corā eis vel aliquo eorū attemptent seu at-
 temptet quod in lēssionē vel derogationē Corone
 dicti Dñi Regis nunc vel in legis contemptū vel in
 ipsius Francisci dampnū aut p̄iudiciū cedere valeat
 quovismodo sub Violatoris Legis Dñi Regis
 nunc pena periculo incurrendi sed quod ab omni
 ulteriori p̄secutione versus ipsū Franciscū in
 p̄missis in p̄dict Curia dicti Dñi Regis nunc corā
 eis vel aliquo eorū penitus desistant & quilibet
 eorum desistat Ac quod iudiciū p̄dictum versus
 ipsum Franciscū sic ut p̄fertur redditum &
 de Recordo intratum idem Iudex rebocari faciat
 indilate Et si quicquid amplius inde in contrariū
 p̄missorum factum sit illud eidem Francisco sine
 dilatione emendari faciat periculo incumbenti
 Et ei conceditur &c.

BY all the said Records it appears that an Action
 of Debt was brought upon a simple contract
 in the Sheriffs Court in *London*, and that the Defen-
 dant put in Bail: and because the cause of Action ac-
 crued out of *London*, the Defendant before impar-
 lance (or he might have done it after a special impar-
 lance) did come in proper person into the Court, and
 produced a Plea in writing, that the cause of Action
 did accrue out of *London*, and out of the Jurisdic-
 tion of that Court, and offered to swear the Plea to
 be true; Whereupon the Judge of the Court in
London refused to accept of the Plea, and entred
 Judgment. For remedy against which proceedings,
 the Defendant moved for, and obtained in the
 Court of Kings-Bench a Writ of *Prohibition*, direct-
 ed

ed to the Judge of the Court in *London* to command him to cease prosecution upon the said pretended Judgment; but before the same could be served *Carew Pearse* one of the Bail was taken in execution and detained until upon motion in the Kings-Bench by consent of the Plaintiff in the Action and of the Judge and Clerks of the Court in *London*, he was set at liberty, and the pretended Judgment vacated. Then *Carew Pearse* being advised that the said pretended Judgment was *coram non Judice*, and so void in it self without any Writ of Error or other means to reverse the same, brought an Action of false imprisonment in the Kings-Bench against the Plaintiff in the Action in *London*, and the Serjeant at Mace who arrested him upon the said pretended Judgment. To which the Defendants in the Kings-Bench pleaded the pretended Judgment in *London*, and the Process thereupon (as aforesaid) and so would justify the imprisonment. To which Plea the Plaintiff *Carew Pearse* by replication pleaded the invalidity of the Judgment in *London* for the Reasons before set forth; and the Plaintiff in the Kings-Bench gave a Rule to the Defendants to rejoin in *Hillary* Term last past; Whereupon the Defendants in the Kings-Bench (one of whom was Plaintiff in *London*) compounded the Suit, and paid the Plaintiff in the Kings-Bench his costs and damages. Know therefore, Reader, that if any Bond, or Contract, or other Action be made, or do arise out of a County where it is sued in the County-Court, or out of any Corporation or Mannor, and be sued in the Court of the Corporation or Mannor, the Defendant may avoid the Action by the means before prescribed; so as he come before imparlance, or after a special imparlance in person into Court and plead, as above said (*mutatis mutandis*) and offer to swear his Plea: By which all inferior and limited Jurisdictions may be kept within their due Bounds, and may learn not to run themselves and Officers into danger of having Actions brought against them, and being forc'd to pay costs and damages for their rash and unadvised Actions.

Also

Also by this last mentioned Writ of Prohibition, it appears, that if any Inferior Court shall divide a joynt Action into three or four by entring several plaints of small sums such as the same Court can hold Plea of, and so wrongfully to give Jurisdiction to the Inferior Court; the Courts at *Westminster* will grant a Prohibition, and release any distress or arrest made by or upon such illegal proceedings; And the procurers of such illegal proceedings may be punished for such offence.

The Reader may further take notice, That in *Hillary Term* in the 33 and 34 year of K. C. the Second in the Kings-Bench, between *Cholmeley* and *Morton*, which is entred *Mick. Term* 33 C. 2. Roll, It was declared by that Court upon Argument, That though a Defendant in an Inferior Court did Plead in Bar, yet if he after that before Tryal did make Oath that the Cause of Action did arise out of the Jurisdiction of the Inferior Court, and not within it, the Kings-Bench would grant a Prohibition; And that the same Term in the same Court between *Cole* and *Brandwood* in *Colchester* Court, and between *Strong* and *Spatchurst* in the Palace Court (vulgarly call'd the *Marshal's Court*) and between *Waterfall* and *Clerk* in the Court of *Burton* upon *Trent* in *Staffordshire*, upon like Oath made, several Prohibitions were granted, and Prisoners delivered out of Gaol. And also that in a Cause between *Fulford* and *Coppin*, H. 33. 34 C. 2. Roll 605. In a Writ of Error of a Judgment in the said Palace Court, after an *Habeas Corpus* was tendred and disallowed (though Issue was not joyned within Six Weeks after the Plaintiff declared) Error was assigned, that the Cause of Action arose out of the Jurisdiction of the Court, and not within it, and upon *in nullo est erratum* Pleaded, and Argument thereupon, the Judgment was reversed in *Easter Term* 34 Car. 2. As appears by the Books of Rules, and Number-Rolls of the several Terms and Years respectively above recited.

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